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TESTIMONY AND EXHIBITS.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1913.

No. 329.

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vs.

LOUISIANA AND PACIFIC RAILWAY CO. ET AL.

No. 330.

ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY ET AL., APPELLANTS,

vs.

LOUISIANA AND PACIFIC RAILWAY CO. ET AL.

No. 331.

UNITED STATES AND INTERSTATE COMMERCE COMMISSION, APPELLANTS,

vs.

WOODWORTH AND LOUISIANA CENTRAL RAILWAY COMPANY ET AL.

No. 332.

ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY ET AL., APPELLANTS,

vs.

WOODWORTH AND LOUISIANA CENTRAL RAILWAY COMPANY ET AL.

No. 333.

UNITED STATES AND INTERSTATE COMMERCE COMMISSION, APPELLANTS,

vs.

MANSFIELD RAILWAY AND TRANSPORTATION COMPANY ET AL.

No. 334.

ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY ET AL., APPELLANTS,

vs.

MANSFIELD RAILWAY AND TRANSPORTATION COMPANY ET AL.

No. 335.

UNITED STATES AND INTERSTATE COMMERCE COMMISSION, APPELLANTS,

vs.

VICTORIA, FISHER AND WESTERN RAILROAD COMPANY ET AL.

No. 336.

ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY ET AL., APPELLANTS,

vs.

VICTORIA, FISHER AND WESTERN RAILROAD COMPANY ET AL.

APPEALS FROM THE UNITED STATES COMMERCE COURT.

FILED DECEMBER 29, 1913.



IN THE

United States Commerce Court.

No. 90.

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vs.

THE UNITED STATES OF AMERICA ET AL., RESPONDENTS; INTERSTATE COMMERCE COMMISSION ET AL., INTERVENERS.

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vs.

THE UNITED STATES OF AMERICA ET AL., RESPONDENTS; INTERSTATE COMMERCE COMMISSION ET AL., INTERVENERS.

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4155 ST. LOUIS, MO., *January* 23, 1911.

Met pursuant to notice in the Hotel Jefferson, at 10:00 A. M. Before John S. Burchmore, Special Examiner.

Appearances:

S. H. Cowan, Esq., (Fort Worth, Texas),
Frank Andrews, Esq., (Houston, Texas) and
W. T. Hancock, Esq., (Houston, Texas), for the Miller Lake Lumber Company, et al., intervenors.

F. C. Dillard, Esq., (Chicago, Ill.) and
J. P. Blair, Esq., (New Orleans, La.) for Morgan's Louisiana & Texas Railroad & Steamship Company, and Louisiana Western Railroad Company.

F. C. Dillard, Esq., (Chicago, Ill.) and
H. M. Garwood, Esq., (Houston, Texas) for the Texas & New Orleans Railroad Company; Houston, East & West Texas Railway Company; Houston & Texas Central Railway Company; Gulf, Harrisburg & San Antonio Railway Company; and also with
H. W. Seaman, Esq., (719 Rookery, Chicago, Ill.) for the Tremont & Gulf Railway Company, and the Groveton, Lufkin & Northern Railway Company.

4156 J. S. Hershey, Esq., (Chicago, Ill.) and
James L. Coleman, Esq., (Railway Exchange, Chicago, Ill.) for the Santa Fe System Lines.

James C. Jeffery, Esq., (Chicago, Ill.) for the Missouri Pacific Railway Company, and St. Louis, Iron Mountain & Southern Railway Company.

Thomas C. McRae, Esq., (Prescott, Ark.) for the Prescott & Northwestern Railroad Company; H. M. Stephens; Western Tie & Timber Company; Caddo & Choctaw Railroad Company; Dorcheat Valley Railroad, and Louisiana Railway Company.

Charles F. Ziebold, Esq., (St. Louis, Mo.) for the Zwolle & Eastern Railway Company; Mississippi Valley Railway Company.

John A. Sargent, Esq., (Kansas City, Mo.) Vice-President and General Manager, Missouri & Louisiana Railroad Company.

George C. Greer, Esq., (Beaumont, Texas) and
H. M. Garwood, Esq., (Houston, Texas) for the Beaumont Transportation Company.

J. D. Riddell, Esq., (Kansas City, Mo.) for the Salem, Winona & Southern Railroad; Victoria, Fisher & Western Railroad Company, and the Ouachita & Northwestern Railroad Company.

4157 N. S. Brown, Esq., (St. Louis, Mo.) for Mangham & Northeastern Railroad Company; Luehrman & Western

Railway Company; and Natchez, Ball & Shreveport Railway Company.

Luther M. Walter, Esq., (Chicago, Ill.) and

T. J. Gaughan, Esq., (Camden, Ark.) for Fordyce & Princeton Railroad Company; El Dorado & Wesson Railroad Company, and Ouachita Valley Railway Company.

Luther M. Walter, Esq., (Chicago, Ill.) for Arkansas Southeastern Railroad Company; Galveston, Beaumont & Northeastern Railway Company; Mansfield Railway & Transportation Company; Peach River & Gulf Railroad Company; Riverside & Gulf Railroad Company; Trinity Valley & Northern Railroad Company; Nacogdoches & Northeastern Railroad Company; Gideon & North Island Railroad Company; Homan & Southeastern Railroad Company; Louisiana & Pine Bluff Railway Company; Fourche River Valley & Indiana Territory Railway Company, and Lake Charles Railway & Navigation Company, et al.

Thomas C. McRae, Esq., (Prescott, Ark.) for Beirne & Clear Lake Railroad Company.

4158 Walter H. Saunders, Esq., for the Warren, Johnsville & Saline River Railroad Company; Gulf & Sabine River Railroad Company; Little Rock, Sheridan & Saline River Railway Company; Tioga & Southeastern Railway Company; Mill Creek & Little River Railway and Navigation Company, and Bernice & Northwestern Railway Company.

W. R. Thurmond, Esq., (Kansas City, Mo.) and

J. Walter Farrar, Esq., (Kansas City, Mo.) for the Louisiana & Pacific Railway Company; Sibley, Lake Bisteneau & Southern Railway Company, and the Woodworth & Louisiana Central Railway Company.

Martin Walsh, Esq., (Nashville, Ark.) for Memphis, Dallas & Gulf Railway Company.

D. B. Holmes, Esq., (Kansas City, Mo.) and

H. M. Garwood, Esq., (Houston, Texas) for Louisiana Central Railway Company.

Henry Quellmalz, Esq., for the Brookings & Peach Orchard Railway Company.

James W. Orr, Esq., (Atchison, Kansas) for Beaumont & Great Northern Railroad Company.

John T. McKay, Esq., (Kennett, Mo.) for the Paragould & Memphis Railway Company.

4159 Howard Coles, Esq., (Blissville, Ark.) for the Mississippi, Arkansas & Western Railroad Company.

J. C. Rich, Esq., (Mobile, Ala.) for the Washington & Choctaw Railway Company.

Messrs. Blair, Drayton & Hillyer (Washington, D. C.) by Charles H. Bates, Esq., and

Charles S. Hillyer, Esq., for the Timpson & Henderson Railroad Company.

Samuel D. Snow, Esq., (Chicago, Ill.) and

Edgar A. Bancroft, Esq., (Chicago, Ill.) for the Deering Southwestern Railway Company.

Luther M. Walter, Esq., (Chicago, Ill.) and
J. D. Barksdale, Esq., (Ruston, La.) for the North Louisiana & Gulf Railroad Company.
Fred H. Wood, Esq., (St. Louis, Mo.) for the New Orleans, Texas & Mexico Railroad Company; Orange & Northwestern Railroad Company.
Henry M. Armistead, Esq., (Little Rock, Ark.) for the Perla Northern Railway Company, and Malvern & Freco Valley Railway Company.
J. T. Burlingame, Vice-President and General Manager, for the Washington & Choctaw Railway Company.
4160 George A. Keyes, Esq., (Kentwood, La.) for the Kentwood & Eastern Railway Company.
Messrs. Andrews, Ball & Streetman, (Houston, Texas) for Burrs Ferry, Browndell & Chester Railway Company.
W. M. Burrow, Esq., (New Orleans, La.) for the Louisiana Railroad Commission.
Sidney F. Andrews, Esq., (539 Pierce Building, St. Louis, Mo.) for the Arkansas Eastern Railroad Company.
Samuel H. West, Esq., (St. Louis, Mo.) for the St. Louis Southwestern Railway Company; St. Louis Southwestern Railway Company of Texas, and Paragould Southeastern Railroad Company.
E. K. Voorhees, Esq., (St. Louis, Mo.) General Freight Agent, for the St. Louis & San Francisco Railroad Company.
O. E. Perkins, Esq., (St. Louis, Mo.) for the St. Louis, Iron Mountain & Southern Railway Company.
C. J. McPherson, Esq., (St. Louis, Mo.) for the Missouri Pacific Railway Company.
C. L. Marsilliot, Esq., (Memphis, Tenn.) for the Crittenden Railroad Company; Helena & Parkin Railroad Company, and Tyronza & St. Francis River Railroad Company; and also, with
4161 J. F. Gautney, Esq., (Jonesboro, Ark.) for the Manila & Southwestern Railroad Company.
Messrs. Saner & Saner, (Dallas, Texas) by
(Jno. S. Saner, Esq.), for the Caro Northern Railway Company.
W. Q. Church, Esq., (Kansas City, Mo.) for the Louisiana Central Railroad Company.
Edward B. Peirce, Esq., (Chicago, Ill.) and
W. F. Dickinson, Esq., (Chicago, Ill.) for the Chicago, Rock Island & Pacific Railway Company.
E. A. Frost, Esq., (Shreveport, La.) for the Mansfield Railway and Transportation Company.
N. S. Brown, Esq., (St. Louis, Mo.) and
F. R. Pierce, Esq., (St. Louis, Mo.) for the Southern Pine System: Enterprise Railroad Company; Griffen, Magnolia & Western Railway Company; and Saline Bayou Railroad Company.
N. S. Brown, Esq., (St. Louis, Mo.) and
H. E. Hardtner, Esq., (Urania, La.) for the Natchez, Urania & Ruston Railway Company.
N. S. Brown, Esq., (St. Louis, Mo.) and
Thos. W. Frye, Esq., (St. Louis, Mo.) for the L'Anguillo Railway Company.

4161*a* S. W. Moore, Esq., (Kansas City, Mo.) for the Kansas City Southern Railway Company.

Messrs. Moore & Moore, (Texarkana, Ark.) by (Henry Moore, Esq.) for Homan & Eastern Railroad Company, and Louisiana & Arkansas Railway Company.

W. S. Hobbs, Esq., (Warren, Ark.) for Warren & Ouachita Valley Railway Company.

John S. Kirkpatrick, Esq., (Kansas City, Mo.) for the De Queen & Eastern Railway Company, and Sabine & Eastern Railway Company.

T. J. Gaughan, Esq., (Camden, Ark.) for the Crossett Railway Company; Louisiana & Pine Bluff Railway Company; and El Dorado & Wesson Railway Company.

4162 Examiner Burchmore: Gentlemen, the Commission has assigned for further hearing today at this place the case commonly known as the Tap Line proceeding, in which a number of separate complaints and proceedings have been consolidated. I assume that the nature of the proceeding is understood by all. I am instructed to announce this morning that we will take up the cases of individual roads here with the probability that we can complete that phase of the case by Thursday night, and the intervenors' testimony will be taken thereafter. Commissioner Harlan is expecting to reach here Thursday morning, and Thursday night an adjournment will be taken to Chicago, and the hearing will be completed at Chicago. That is the present plan; of course, this plan may be subject to some variation as the necessities require.

Mr. Garwood: Would it be safe to assume, then, that the witnesses as to the interventions may not appear before Thursday?

Examiner Burchmore: I think it is certain we cannot get through the individutal lines before Wednesday night. It is possible the intervenors may put in some testimony on Thursday. We will expedite the hearing as much as possible. It is my purpose
4163 to call first a list of the roads that have not as yet been heard. This list is possibly incomplete, and if counsel representing the several lines will respond when their roads are called, we will know what companies we have yet to hear, and during the noon hour we can make up a list of the cases in the order in which they will be called, so that by afternoon we will be able to indicate the order of the individual cases. For this morning we have listed five companies.

The Beaumont & Great Northern is present, represented by Judge Orr of Atchison. The hearing with respect to that road will not be in connection with the present case, but really in connection with a formal complaint they have had on file for some time and in which the record has been closed but is re-opened for the purpose of taking this further testimony. That case is No. 1984 on our docket.

The Arkansas Southeastern, is that road ready?

Mr. Walter: Ready.

Examiner Burchmore: El Dorado & Wesson Railway?

Mr. Walter: Resady.
Examiner Burchmore: Fordyce & Princeton Railway?
Mr. Walter: Ready.
4164 Examiner Burchmore: Ouachita Valley Railway?
Mr. Walter: Ready.
Examiner Burchmore: The Natchez, Ball & Shreveport Railway?
Mr. Brown: Ready.
Examiner Burchmore: Paragould & Memphis Railway?
Mr. McKay: Ready.
Examiner Burchmore: Any counsel who are present and have not already filed appearances in the case at New Orleans will kindly hand their appearance to the reporter during the morning, otherwise they will not be noted as having appeared in the case.
Portland & Southeastern?
Memphis, Dallas & Gulf.
Mr. Walsh: Here.
Examiner Burchmore: Galveston, Beaumont & Northeastern
Mr. Walter: That, with the other two Peach River lines, will be ready for Wednesday. The witnesses will be here that morning.
Examiner Burchmore: The Gulf & Sabine River Railroad?
Mr. Garwood: I think Mr. Saunders represents that road. If you will hold that open for a little while. That is a Louis-
4165 iana Line, I believe.
Examiner Burchmore: The Mansfield Railway & Transportation Company.
Mr. Walter: Ready.
Examiner Burchmore: The Sabine & Eastern Railway?
(No response.)
Examiner Burchmore: The Peach River & Gulf, and Riverside & Gulf will go over until Wednesday.
The Timpson & Henderson?
Mr. Hillyer: We are ready.
Examiner Burchmore: The Trinity Valley & Northern?
Mr. Walter: Ready.
Examiner Burchmomre: Nacogdoches & Northeastern?
Mr. Walter: Ready.
Examiner Burchmore: Gideon & North Island?
Mr. Walter: The same.
Examiner Burchmore: Round Pond Terminal Company?
(No response.)
Examiner Burchmore: Wyandotte & Southeastern?
(No response.)
Examiner Burchmore: The Newport Packet Company?
(No response.)
Examiner Burchmore: Dardenelle, Ola & Southern Railway?
4166 (No response.)
Examiner Burchmore: Antoine Valley Railroad?
(No response.)
Examiner Burchmore: The Beirne & Clear Lake Railroad?
(No response.)
Examiner Burchmore: The Brookings & Peach Orchard?

Mr. Quellmalz: Here.
Examiner Burchmore: Elmore & Southwestern?
(No response.)
Examiner Burchmore: The Greenfield & Southeastern?
(No response.)
Examiner Burchmore: Helena, Parkin & Northern?
(No response.)
Examiner Burchmore: Homan & Southeastern?
Mr. Walter: Ready.
Examiner Burchmore: The Kearney & Sheridan?
(No response.)
Examiner Burchmore: Lester & Ouachita Valley Railway?
(No response.)
Examiner Burchmore: Louisiana & Pine Bluff Railway?
Mr. Walter: Ready.
Examiner Burchmore: Luehrmann & Western Railway?
4167 Mr. Brown: Ready.
Examiner Burchmore: Mississippi, Arkansas & Western Railway?
Mr. Coles: Here.
Examiner Burchmore: The Englewood, Alexandria & Southwestern?
(No response.)
Examiner Burchmore: The Norman's Southeastern?
(No response.)
Examiner Burchmore: Poplar Bluff & Dan River?
(No response.)
Examiner Burchmore: Prescott, Reader & Fordyce?
(No response.)
Examiner Burchmore: Scott County Railroad?
(No response.)
Examiner Burchmore: Schwartz & Ouachita City?
(No response.)
Examiner Burchmore: Tyronza & St. Francis River Railway?
(No response.)
Examiner Burchmore: West Point Railroad?
(No response.)
Examiner Burchmore: Williamsville, Greenville & St. Louis?
(No response.)
4168 Examiner Burchmore: Wills Point?
(No response.)
Examiner Burchmore: Anderson & Saline River Railway?
(No response.)
Examiner Burchmore: Bodcaw Valley Railway?
(No response.)
Examiner Burchmore: Durham Transportation Company?
(No response.)
Examiner Burchmore: England & Clear Lake Railway?
(No response.)
Examiner Burchmore: Martindale & Ouachita Railroad?
(No response.)

Examiner Burchmore: Rison & Mount Elba?
(No response.)
Examiner Burchmore: In connection with that road there is a letter filed in the record dated September 21st, and written by the manager, E. W. Farrar, which says in part "Has been discontinued since about the 1st of June. We are in no way using this road and the track is being taken up and disposed of."
Washington & Choctaw?
Mr. Garwood: J. C. Rich is here, and myself, and we are ready.
4169 Examiner Burchmore: Kendall & Sulphur Springs Railway?
(No response.)
Examiner Burchmore: This company advised the Commission on September 21st, 1910, as follows: "We got these rates when we were cutting pine, but were denied them when we went into hardwood, and on this account were forced out of business We have surrendered our charter and gone out of business." So of course they will want no hearing.
Pollok & Angelina Valley Transportation Company.
(No response.)
Examiner Burchmore: Loring & Western Railway?
(No response.)
Examiner Burchmore: Louisiana & Eastern Railway?
(No response.)
Examiner Burchmore: Louisiana Central Railroad?
Mr. Garwood: That is ready.
Examiner Burchmore: Lake Charles & Northern Railroad?
Mr. Garwood: That must be a mistake, that is not a tap line.
Examiner Burchmore: I think that is perhaps a mistake. Shreveport, Noble & Southern Railroad?
(No response.)
4170 Examiner Burchmore: Kingston Railway Company?
(No response.)
Examiner Burchmore: Osceola, Little River & Western Railroad?
(No response.)
Examiner Burchmore; Tyronza & St. Francis River Railway?
(No response.)
Examiner Burchmore: St. Francis River Railroad?
(No response.)
Examiner Burchmore: Beaumont & Saratoga Transportation Company?
Mr. Garwood: It is ready.
Examiner Burchmore: Livingston & Southeastern?
(No response.)
Examiner Burchmore: Mangham & Northeastern?
Mr. Brown: Ready.
Examiner Burchmore: Jefferson & Northwestern?
(No response.)
Examiner Burchmore: Shamrock & Western?
(No response.)

Examiner Burchmore: Houston & Brazos Valley?

(No response.)

4171 Examiner Burchmore: Meto Valley Railway?

(No response.)

Examiner Burchmore: Onalaska & Northwestern?

(No response.)

Examiner Burchmore: Bay Shore Lumber Company?

(No response.)

Examiner Burchmore: We will take up first the Beaumont & Great Northern.

Mr. Walter: You did not call the North Louisiana & Gulf; that is a Rock Island connection.

Examiner Burchmore: I had intended to inquire if there were any other roads which had been omitted. Are there any other roads?

Mr. Snow: The Deering Southwestern is represented here; S. D. Snow.

Examiner Burchmore: Is the Alabama Central Railroad present?

Mr. Walter: Mr. Childs will be here, I think, on Wednesday.

Mr. McRae: I was not present when you began the call, and did not quite understand the purpose of it. Was it simply to ascertain who was present?

Examiner Burchmore: Yes.

4172 Mr. McRae: Did you call the Beirne & Clear Lake?

Examiner Burchmore: Yes.

Mr. McRae: That is represented and present.

Examiner Burchmore: Any other companies?

Mr. McRae: No other that I represent. May I inquire the order in which the hearing will be proceeded with?

Examiner Burchmore: That will be announced this afternoon. Have counsel any inquiries or motions?

Mr. Saunders: The Gulf & Sabine River is ready.

Mr Jeffery: Your Honor, at the last hearing of the Tap Line investigation a request was made on the St. Louis, Iron Mountain & Southern Railway to furnish certain exhibits, contract agreements with various lumber companies, and I will hand to the reporter for filing in this investigation spur track agreement between the St. Louis, Iron Mountain & Southern Railway Company and the Farrell Lumber Company; spur track agreement between the St. Louis, Iron Mountain & Southern Railway Company with the Farrell Lumber Company; there are two separate agreements, I think one is supplemental to the other; spur track agreement between Farrell Miles Lumber Company, and St. Louis, Iron Mountain & Southern.

4173 There are still two spur track agreements that have been requested by the Commission that I will file during the course of the day. I have not had copies made yet.

(The papers above referred to were marked filed, of January 23rd, 1911, and are attached hereto.)

Examiner Burchmore: I intended to ask also whether any of the roads that were heard at New Orleans had any further statements to put in in connection with their cases?

Mr. Garwood: For the Tremont & Gulf and the Groveton, Lufkin & Northern, we wish to file contracts for each of those lines. Your Honor may possibly remember that the witnesses testified in those cases that there was a contract which had been practically consummated but had not been formally signed and reduced to writing, and during the day we would like permission to introduce those contracts.

Examiner Burchmore: They may be filed.

Mr. Saunders: The Warren, Johnsville & Saline River Railroad Company would also like to file a statement with regard to the authorization of the road and certain details which were requested.

Mr. Farrar: Could an ex parte affidavit be filed with reference to certain figures?

Examiner Burchmore: In connection with a case already
4174 heard?

Mr. Farrar: Yes.

Examiner Burchmore: What is the company?

Mr. Farrar: The Louisiana & Pacific. I simply heard of some evidence this morning in the nature of information and figures, perhaps, but it has not come from our own people, but would be from an outside shipper. It is too late to get him here now.

Examiner Burchmore: If you will forward that to the Commission with a letter requesting it to be filed, it will have an examination and will be ruled on then.

Mr. Cowan: Let us have a copy of it, of course.

Mr. Farrar: Yes.

Mr. McRae: In the case of the Prescott & Northwestern, a shipper and owner of a considerable lot of timber on that road has indicated that he would like to submit a petition or statement or ex parte affidavit showing how the cancellation will affect him. He is not here today. He is a citizen of La Crosse, Wisconsin, and he may not be able to get the statement here during this hearing. If he does, he would like to submit it, and if not, he would like to file it with
the Commission. It does not affect the Prescott & North-
4175 western except on the general proposition, but it affects the shipper, and I would ask that he be allowed to do that.

Examiner Burchmore: That will be taken in the same way.

Mr. McRae: Henry G. Gund, I think is his name.

Mr. Coleman: I would like to ask if there is any objection to having these people brought here to be cross examined?

Mr. McRae: None whatever.

Mr. Coleman: I think that would be preferable to any affidavits. We might want to cross examine them.

Mr. McRae: I do not know how long the Commission will be here, but there is no reason why they would not be willing to submit to examination if they can get here. I am not certain they can get here during this sitting.

Mr. Coleman: I think if it is anything material we would insist upon the right to cross examine. We all had to come here.

Examiner Burchmore: The nature of this statement is that a certain shipper wishes to state to the Commission that he proposes

to ship so many carloads of something during the next year and if that witness appears here during the course of the trial we will expect you to mention the fact, Mr. McRae.

4176 Mr. McRae: Certainly. The nature of the statement will be this, that he purchased a large holding of hardwood timber on the line of the Prescott & Northwestern Railroad with the understanding that he would have the same rate from his mill as on the main line, and that he would not have bought this timber and he could not handle it if he has to pay the local rates into Prescott and from thereon, and it will show the effect of the purchase and the extent of it.

Examiner Burchmore: It will be understood if the witness comes to St. Louis during the pendency of this trial, you will produce him in court?

Mr. McRae: Certainly.

Examiner Burchmore: And if not, you can send his affidavit to the Commission and they will examine it and see whether it can be received.

Mr. McRae: Yes.

Examiner Burchmore: We will take up now the Beaumont & Great Northern Railroad with the Arkansas Southeastern and the El Dorado & Wesson and the Fordyce & Princeton, and the Ouachita Valley listed in the order they are called, all being Rock Island connections, and having been postponed from New Orleans.

4177 WILLIAM CARLISLE was then duly sworn, and the testimony given by him will be found in the record in Docket No. 1984.

After which, at 12:15 P. M., a recess was taken until 1:30 P. M.

4178 After Recess.

1:30 P. M.

Arkansas Southeastern Railroad.

F. G. RICE was called as a witness, and having been duly sworn, testified as follows:

Examiner Burchmore: You are the General Freight Agent of the Arkansas Southeastern Railroad Company?

Mr. Rice: Yes, sir.

Examiner Burchmore: You are also the General Passenger Agent?

Mr. Rice: Yes, sir.

Examiner Burchmore: The line of your company connects with the Chicago, Rock Island & Pacific at Randolph, La?

Mr. Rice: That is right.

Examiner Burchmore: And in what direction does its line extend from that point?

Mr. Rice: Southeasterly to Farmerville, La.

Examiner Burchmore: Where a connection was made with the Iron Mountain?

Mr. Rice: Yes, sir.

Mr. Walter: You do not mean that a connection now exists?

Mr. Rice: The connection proper is not made; the grading is up to the Iron Mountain. We are not operating into Farm-
4179 erville at present.

Examiner Burchmore: How far from Farmerville are you at present?

Mr. Rice: About two miles.

Examiner Burchmore: What is the total main line mileage of the road?

Mr. Rice: 27.72 miles approximately.

Examiner Burchmore: How many miles of spurs and sidings have you?

Mr. Rice: 20.6 we report as main line, which includes about 3 miles of sidings.

Examiner Burchmore: Have you sold any part of your line in recent months?

Mr. Rice: Yes, sir—no, we have not sold any; previous to the 1910 reports, we reported mileage that did not belong to the Arkansas Southeastern Railway, that is lumber line that was not operated.

Examiner Burchmore: That was all branch line mileage?

Mr. Rice: Branch line mileage.

Examiner Burchmore: Logging spurs?

Mr. Rice: Logging spurs.

Examiner Burchmore: Of the Summit Lumber Company?

Mr. Rice: Of the Summit Lumber Company.

4180 Examiner Burchmore: In what part of the state is this road situated?

Mr. Rice: The Northeastern part of Louisiana. I have a profile here, your Honor, if you would like to lay it before you, showing our mileage to Farmerville and the underneath one is the proposed extension to Monroe.

Examiner Burchmore: What is this road that is marked on the first map as the "F. S. Railroad?"

Mr. Rice: The Farmerville Southern, which is a part or a branch of the Iron Mountain System.

Examiner Burchmore: Is it your purpose to offer these as exhibits?

Mr. Rice: Yes, sir.

Examiner Burchmore: We will have them marked at this time.

(The papers so offered and identified, were received in evidence and thereupon marked Arkansas Southeastern Railroad Exhibits Nos. 1 and 2, Witness Rice, received in evidence January 23, 1911, and are attached hereto.)

Examiner Burchmore: The Summit Lumber Company has mills on your line?

Mr. Rice: They have.

Examiner Burchmore: More than one mill?

Mr. Rice: One mill located at Randolph.

4181 Examiner Burchmore: What is the distance from that mill to the right of way of the Rock Island Railroad?

Mr. Rice: Approximately 150 yards, the mill itself.

Examiner Burchmore: Is there any private switch track or Rock Island switch track which connects that mill with the Rock Island right of way?

Mr. Rice: No.

Examiner Burchmore: The only means of getting from the loading platform at the mill to the Rock Island is over the rails of the Arkansas Southeastern?

Mr. Rice: Not the only way, no, but all interchanges are made over the Arkansas Southeastern; but there is one loading track which connects with the Rock Island.

Examiner Burchmore: You have one loading track on this railroad and one on the Rock Island?

Mr. Rice: No, the loading track is properly the property of the Arkansas Southeastern, but as I stated, it makes a connection with the Rock Island, but it is not used as an interchange track.

Examiner Burchmore: Is that shown on the map?

Mr. Rice: No, it is not shown in detail. At the extreme left, it is not shown on that profile.

4182 Examiner Burchmore: Will you kindly prepare and send to the Commission a map of the town of Randolph and vicinity, showing the tracks of the two roads and the mill and the loading track, and a large map of the terminal?

Mr. Rice: I will.

Mr. Cowan: And the other track which he says is not used by the road.

Examiner Burchmore: Yes, showing all the tracks.

Mr. Rice: All the tracks at Randolph, yes, sir.

Examiner Burchmore: When was the mill of the Summit Lumber Company opened for operation?

Mr. Rice: I could not answer that definitely; something like ten years.

Examiner Burchmore: The Summit Lumber Company built that mill itself?

Mr. Rice: No, I believe not; I believe they bought it and added to it.

Examiner Burchmore: They bought it ten years ago?

Mr. Rice: Approximately.

Examiner Burchmore: When was this railroad incorporated?

Mr. Rice: November 15th, 1904.

Examiner Burchmore: Was that previous to the construc-

4183 tion of the road?

Mr. Rice: Previous to some of it.

Examiner Burchmore: There was a railroad there at that time?

Mr. Rice: There was.

Examiner Burchmore: And that railroad extended from the present junction with the Rock Island over a part of the distance traversed by the present line?

Mr. Rice: That is true.

Examiner Burchmore: When was that railroad first constructed?

Mr. Rice: Well, I have not the date, other than prior to 1900.

Examiner Burchmore: At the same time the mill was opened?

Mr. Rice: I think so; I cannot answer definitely.

Examiner Burchmore: Your impression is however, that when the sawmill was opened for operation at Randolph, there was a logging road built or available for bringing in the logs?

Mr. Rice: Yes, sir.

Examiner Burchmore: And several years later this logging road was incorporated as a railroad?

Mr. Rice: That is true.

Examiner Burchmore: What was the purpose of the in-
4184 corporation of the railroad, if you know?

Mr. Rice: In order to get through rates and divisions and conduct the railroad as a common carrier, and handle whatever shipments were tendered us.

Examiner Burchmore: Were there at that time any other saw mills in that vicinity?

Mr. Rice: I think not at that time.

Examiner Burchmore: Were there are any other shippers whose traffic promised to be considerable in amount?

Mr. Rice: Well, not dated that far back, possibly not.

Examiner Burchmore: What was the total capitalization of this railroad when first incorporated?

Mr. Rice: $500,000.

Examiner Burchmore: Was that whole amount issued?

Mr. Rice: All issued.

Examiner Burchmore: Do you know what they paid for the railroad that they then acquired?

Mr. Rice: They paid $254,597.73.

Examiner Burchmore: How many miles of road did they acquire for that sum?

Mr. Rice: 20.6 miles.

Examiner Burchmore: Then the whole of the present line
4185 was then in operation?

Mr. Rice: Of the present line, yes, sir.

Mr. Walter: Exclusive of the Farmerville extension.

Mr. Rice: Well, that is not included in that 20.6 miles.

Mr. Walter: That is the length of the extension.

Examiner Burchmore: I do not believe I quite understand that. What is the extent of that extension?

Mr. Rice: 9.72 miles.

Examiner Burchmore: That has been built within the last two years?

Mr. Rice: Well, within the last four years.

Examiner Burchmore: That is a part of the present main line?

Mr. Rice: That is true.

Examiner Burchmore: When the railroad was acquired therefore by the present corporation in its mileage so acquired, there was included some logging road that has since been taken up?

Mr. Rice: Yes, sir.

Examiner Burchmore: How was this extension of the line financed?

Mr. Rice: It was financed by the Messrs. Silverthorne.

Examiner Burchmore: Do you mean they borrowed
4186 money on notes, or how did they finance it?

Mr. Rice: They put up the money or advanced the money for the construction of the road.

Examiner Burchmore: For the construction of the road or the extension?

Mr. Rice: Well, the extension and construction of the Farmerville extension.

Examiner Burchmore: What was the cost of that extension, if you know?

Mr. Rice: To date it is approximately $75,000.

Examiner Burchmore: I understood you to say the Arkansas Southeastern previously or at least at one time operated some of the logging roads of the Summit Lumber Company. Were those lines operated under trackage arrangements or lease or what?

Mr. Rice: Well, at that time when they were operated the Arkansas Southeastern maintained the logging spurs and the Summit Lumber Company paid them for hauling their logs, in lieu of their maintaining the expense of the logging road, while they did not own spurs from the main line. That arrangement, however, has been discontinued.

Examiner Burchmore: The discontinuance of that arrangement involved no payment of money one way or the other;
4187 they simply made a new arrangement.

Mr. Rice: Other than in selling some equipment at that time, the Arkansas Southeastern Railroad owned all the locomotives, and when they gave up the maintenance of the logging spurs they sold to the lumber company three locomotives.

Examiner Burchmore: You said when the railroad was first incorporated there was $500,000 of stock issued. You further explained that $254,000 in round figures, was paid for the constructed road.

Mr. Rice: That is true.

Examiner Burchmore: What became of the difference between that sum and the $500,000?

Mr. Rice: Well, the Messrs. Silverthorne, as I stated, were to put up the money for the construction of the Farmerville extension.

Examiner Burchmore: Are we to understand when the railroad was first incorporated practically the entire capital stock was issued to the Messrs. Silverthorne?

Mr. Rice: That is right.

Examiner Burchmore: And not for cash?

Mr. Rice: And not for cash.

Examiner Burchmore: They paid for it partly by turning over the constructed road valued at $254,000, and partly by
4188 promising to advance further sums of money in the future?

Mr. Rice: Yes, sir.

Examiner Burchmore: And as a matter of fact they have since paid in $75,000 in advances?

Mr. Rice: That is true.

Examiner Burchmore: So they hold some $125,000 of stock for which they have not paid any cash?

Mr. Rice: Well, it is charged to them; that stock is charged to them.

Examiner Burchmore: Who controls the Summit Lumber Company, if you know?

Mr. Rice: I could not state that.

Examiner Burchmore: The president of this railroad is Mr.——

Mr. Rice: J. S. Blackwell.

Examiner Burchmore: How long has he been president?

Mr. Rice: Since the first of the year, January 1st.

Examiner Burchmore: Was he not elected president on July 1st, 1910?

Mr. Rice: No, sir, January 2nd, 1911.

Examiner Burchmore: Who was president previous to his election?

Mr. Rice: W. E. Silverthorne.

4189 Examiner Burchmore: Who is now the Vice-President?

Mr. Rice: A. K. Silverthorne.

Examiner Burchmore: And Secretary?

Mr. Rice: F. G. Rice. That is effective January 2nd.

Examiner Burchmore: Mr. W. H. Fields was formerly Secretary?

Mr. Rice: Yes, sir.

Examiner Burchmore: And A. E. Silverthorne was formerly treasurere. Who occupies that position at present?

urer. Who occupies that position at present?

Examiner Burchmore: And the Auditor is T. E. Slocum?

Mr. Rice: He was Auditor at the time that report was made. I have that title at present.

Examiner Burchmore: And the General Manager?

Mr. Rice: A. E. Silverthorne.

Examiner Burchmore: The Traffic Manager is G. F. Thomas.

Mr. Rice: That is correct.

Examiner Burchmore: Are those gentlemen also officers of the Summit Lumber Company, and if so, what is their position?

Mr. Rice: Mr. A. K. Silverthorne and A. E. Silverthorne are officers of the Summit Lumber Company, but I cannot state their official title; I am not familiar enough.

Examiner Burchmore: Are you employed by the Summit Lumber Company in any capacity?

4190 Mr. Rice: No.

Examiner Burchmore: Is Mr. G. F. Thomas related in any way to the Summit Lumber Company?

Mr. Rice: Not at all.

Examiner Burchmore: Then aside from the two gentlemen you have mentioned, none of the officers of this railroad are employed or connected with the Summit Lumber Company?

Mr. Rice: Not in any way.

Examiner Burchmore: Do you know who the present directors of this railroad are?

Mr. Rice: J. S. Blackwell, A. K. Silverthorne, A. E. Silverthorne, A. A. Barksdale and F. G. Rice.

Examiner Burchmore: Who is Mr. J. S. Blackwell?

Mr. Rice: I understand that he is a real estate man located in Muscatine, Iowa, that is his home address.

Examiner Burchmore: Do you know what his stock holding is in this corporation?

Mr. Rice: Not definitely, but have been informed that he holds large interests.

Examiner Burchmore: Does he own any stock in the Summit Lumber Company?

Mr. Rice: No, sir.

Examiner Burchmore: Are you sure about that?

4191 Mr. Rice: Yes, sir.

Examiner Burchmore: Any member of his family own stock in the Summit Lumber Company?

Mr. Rice: No.

Examiner Burchmore: Does he hold this stock of the railroad absolutely or in trust for some one else?

Mr. Rice: He holds it in his own name.

Examiner Burchmore: Well, is it in his own right?

Mr. Rice: As I understand it, it is.

Examiner Burchmore: Does this stock pay dividends?

Mr. Rice: No, sir, it has not done so far.

Examiner Burchmore: Who is Mr. Barksdale?

Mr. Rice: Mr. Barksdale is an attorney at Ruston, La.

Examiner Burchmore: Does he own any considerable amount of stock in these two companies?

Mr. Rice: A nominal amount in the railroad.

Examiner Burchmore: Simply a director's qualifying share?

Mr. Rice: Yes, sir.

Examiner Burchmore: How many shares do you own of the railroad stock?

Mr. Rice: One.

Examiner Burchmore: Do you have that certificate in

4192 your possession?

Mr. Rice: Not at present, no.

Examiner Burchmore: You have endorsed it in blank?

Mr. Rice: I have not received it as yet.

Mr. Walter: You were only elected director on the 2nd of January?

Mr. Rice: On the 2nd of January.

Examiner Burchmore: Have you a list of the stockhalders of this railroad?

Mr. Rice: I have not one here, no.

Examiner Burchmore: Do you know who they are in a general way?

Mr. Rice: Yes, sir.

Examiner Burchmore: Is it not a fact that this railroad company is, in a substantial sense at least, owned by the stockholders of the lumber company?

Mr. Rice: Well, I believe not, since Mr. Blackwell has been taken

into the organization. I have been informed that Mr. W. E. Silverthorne, who owned practically the controlling interest of the stock of the road, had sold the bigger portion of it to Mr. Blackwell.

Examiner Burchmore: Was that a cash sale?

4193 Mr. Rice: I could not answer that.

Examiner Burchmore: Do you have any impression as to the extent of the stock of this railroad which is outstanding in the hands of persons having no relation to the lumber company?

Mr. Rice: As I understand, Mr. Blackwell owns approximately 60 per cent of the railroad stock.

Examiner Burchmore: Do you know of your own knowledge that Mr. Blackwell is not connected with this lumber company in any capacity?

Mr. Rice: Yes.

Examiner Burchmore: You know of your own knowledge that he is not a stockholder of this lumber company?

Mr. Rice: Yes.

Examiner Burchmore: You have examined the stock lists of the lumber company?

Mr. Rice: No.

Examiner Burchmore: Do you know whether it is a fact that he holds that in his own right without any obligations to anyone else in connection with that stock?

Mr. Rice: So far as I know he holds it in his own right.

Examiner Burchmore: Do you know any fact that might lead you to think that perhaps he did not hold it in his own right?

4194 Mr. Rice: No, sir.

Examiner Burchmore: Does the Arkansas Southeastern have trackage rights over any other road?

Mr. Rice: No, none at all.

Examiner Burchmore: Do you give trackage rights to anyone else?

Mr. Rice: No.

Examiner Burchmore: What is the weight of rail in your line?

Mr. Rice: 60 and 35 pound.

Examiner Burchmore: How much of each?

Mr. Rice: About 40 per cent of 35 pound and the balance 60 pound.

Examiner Burchmore: How long have you had that 60 pound rail?

Mr. Rice: I could not state definitely; say four years, between three and four years.

Examiner Burchmore: What is the character of construction of the road, that is with reference to bridges and curves and grades and ballast, and so forth?

Mr. Rice: No ballast, and wooden trestles.

Examiner Burchmore: Any sharp curves?

Mr. Rice: No, there are no very sharp curves and no very
4195 steep grades. I cannot state the degree of curvature or grades, but the annual report covers that, however, and the number of bridges.

Examiner Burchmore: What station buildings or other structures have you?

Mr. Rice: We have a station at Caloway and one at Tugwell City; they are shown on the profile that is offered as part of the record.

Mr. Walter: Have you photographs of those buildings?

Mr. Rice: Yes. If your Honor will care to accept these, I have photographs of the stations.

Mr. Walter: They will give you some idea of the construction.

Examiner Burchmore: We might look at them, but we would hardly care to file them in the record.

Mr. Walter: Oh, no, just for your own information.

Mr. Rice: (Referring to photographs.) There is Tugwell and there is Caloway, and some of the track also.

Examiner Burchmore: What was the cost of this station at Tugwell, in a general way?

Mr. Rice: About $450 each; both those stations were constructed at the same time.

Examiner Burchmore: Any permanent agents located in
4196 those stations?

Mr. Rice: We have no agents at present. We expect to put in agents when we get connected at Farmerville.

Mr. Walter: These stations were approved by the Louisiana Commission, do you know?

Mr. Rice: I believe so, but I would not answer positively on that.

Examiner Burchmore: With reference to your equipment, how many locomotives has the railroad?

Mr. Rice: Two.

Examiner Burchmore: It owns both those locomotives?

Mr. Rice: Yes, sir.

Examiner Burchmore: Operates them?

Mr. Rice: Owns them and operates them.

Examiner Burchmore: How many locomotives did it sell to the lumber company?

Mr. Rice: Three.

Examiner Burchmore: Previous to the sale it had five?

Mr. Rice: Yes, sir, that is correct.

Examiner Burchmore: Can you advise us what price was paid for those locomotives by the lumber company?

Mr. Rice: As well as I remember, the three locomotives were between $12,000 and $14,000, but that is accounted for in the
4197 annual report you have there. I have not the figures before me, but approximately $12,000 or $14,000.

Examiner Burchmore: What is the relation between that price and the price that the railroad company paid for the locomotives when they acquired them?

Mr. Rice: The usual depreciation allowance made for the time between the purchase price from the lumber company and the sale to them.

Examiner Burchmore: Can you give us the rate of depreciation?

Mr. Rice: Well——

Examiner Burchmore: How many years did you have those locomotives, and about what rate per year did you charge off?

Mr. Rice: I don't think I can answer that question offhand. However, I figured the depreciation that is set forth in the Interstate Commerce Commission's rulings. I believe they specify a certain percentage for depreciation.

Examiner Burchmore: How many box cars have you?

Mr. Rice: None.

Examiner Burchmore: Any flat cars?

Mr. Rice: 18.

Examiner Burchmore: Are those logging cars?

Mr. Rice: No, sir.

4198 Examiner Burchmore: Have you any logging cars?

Mr. Rice: 73.

Examiner Burchmore: Do you operate those yourself?

Mr. Rice: Yes, sir, we do.

Examiner Burchmore: Does the Summit Lumber Company use them at times?

Mr. Rice: They do.

Examiner Burchmore: They are used in hauling the Summit Lumber Company's logs to the mill?

Mr. Rice: Yes.

Examiner Burchmore: Has the Summit Lumber Company any logging cars of its own at all?

Mr. Rice: None at all.

Examiner Burchmore: You said 18 flat cars. What use is made of them?

Mr. Rice: Hauling timber and lumber shipments that can be loaded on flat cars, and any other freight that may be offered us that could be properly loaded on flat cars.

Examiner Burchmore: Those cars do not leave your rails?

Mr. Rice: No, sir.

Examiner Burchmore: Any passenger equipment?

Mr. Rice: One combination car.

4199 Examiner Burchmore: Any motor car or hand cars?

Mr. Rice: One motor car.

Examiner Burchmore: What use is made of that motor car?

Mr. Rice: For general inspection work; the trainmaster uses it, the superintendent uses it, the superintendent mostly; in cases of wrecks and in emergency calls we may have.

Examiner Burchmore: Do these cars and locomotives have the proper safety devices?

Mr. Rice: The locomotives and five of the cars and the combination car are all equipped with automatic couplers and air.

Examiner Burchmore: The logging cars are not?

Mr. Rice: They are not.

Examiner Burchmore: Or the other flat cars?

Mr. Rice: No, sir.

Examiner Burchmore: But you endeavor to comply with the Safety Appliance Act?

Mr. Rice: We do.

Examiner Burchmore: Which makes an exception in favor of logging cars under certain circumstances?

Mr. Rice: Yes, sir.

Examiner Burchmore: Is the railroad equipped with telegraph and telephone service?

4200 Mr. Rice: Telephone.

Examiner Burchmore: Do you own that telephone service?

Mr. Rice: The Arkansas Southeastern owns it.

Examiner Burchmore: Does the Summit Lumber Company make use of the telephone?

Mr. Rice: Yes, jointly; they have a connection from our main line to their camps which they use in transacting their business.

Examiner Burchmore: How many train crews have you, and how many men?

Mr. Rice: One train crew.

Examiner Burchmore: The other locomotive is used for relief work then?

Mr. Rice: For relief, or for work trains.

Examiner Burchmore: You only have one train crew. Do you have an extra engineer who runs the work train?

Mr. Rice: Yes, we use an engineer in the shops; we manage to keep him busy in the shops when he is not on the road.

Examiner Burchmore: You have no station agents?

Mr. Rice: One, at Randolph.

Examiner Burchmore: He is a joint employé with the Rock Island Railroad?

Mr. Rice: No, he is paid solely by the Arkansas South-

4201 eastern Railway.

Examiner Burchmore: Is he employed also in any connection by the Summit Lumber Company?

Mr. Rice: Not at all.

Examiner Burchmore: Your annual report sheet seems to show Mr. R. T. Smith, Mrs. McKay and J. B. Smith.

Mr. Rice: Did you state Mrs. McKay?

Examiner Burchmore: I am just reading your report.

Mr. Rice: Possibly I should have included her as an agent. She only handles the little telephoning at the station of McKay in passing the trains, she reports the passing of the trains and I classified her as an agent.

Examiner Burchmore: Who is R. T. Smith?

Mr. Rice: Agent at Randolph.

Examiner Burchmore: Who is J. B. Smith?

Mr. Rice: He was agent at a station named Luter, which we have abolished since the report was made.

Examiner Burchmore: You seem to have two machinists, two carpenters and eight other shop men reported on your rolls.

Mr. Rice: That is approximately correct. It fluctuates a little bit according to the demands for labor.

Examiner Burchmore: Does it require that large force in
4202 your shops to keep your equipment in order?

Mr. Rice: It does; there is a great deal of work on the logging cars.

Examiner Burchmore: Do those men also repair the locomotives of the Summit Lumber Company?

Mr. Rice: Yes, sir.

Examiner Burchmore: What charge do you make the lumber company?

Mr. Rice: The actual cost plus ten per cent in addition.

Examiner Burchmore: How many section gangs have you?

Mr. Rice: Three.

Examiner Burchmore: Are there any other employees on the road whom I have not included in these names?

Mr. Rice: I believe not.

Examiner Burchmore: Let me ask about the general officers. You have four general officers apparently who receive a salary from the railroad company?

Mr. Rice: That is the President, Vice President, General Manager and General Superintendent.

Examiner Burchmore: How about your counsel——

Mr. Rice: He receives a salary.

Examiner Burchmore: And the Auditor?

Mr. Rice: He receives a salary.

4203 Examiner Burchmore: That is six.

Mr. Rice: I may not have classified them under the heading of general officers.

Examiner Burchmore: You have two headings here, general officers, President, Vice President, General Manager and General Superintendent, and other officers, General Freight Agent, Traffic Manager——

Mr. Rice: General Attorney and Auditor.

Examiner Burchmore: M. M., that is Master Mechanic, I suppose.

Mr. Rice: Yes, sir.

Examiner Burchmore: And two other words here, it looks like "Ind. Agent."

Mr. Rice: That was a man we had on the roll for a while as Industrial Agent. We have discontinued his services some time ago.

Examiner Burchmore: Then the total compensation of the ten general and other officers seem as to have been about somewhat in excess of $8,000 a year.

Mr. Rice: That is true, between $8,000 and $9,000.

Examiner Burchmore: The details of that will be found of course in the annual report?

Mr. Rice: Yes, sir.

4204 Examiner Burchmore: Do you issue any time tables?

Mr. Rice: One (handing paper).

Examiner Burchmore: How many trains a day are there covered by that time table?

Mr. Rice: Two trains.

Examiner Burchmore: That is a mixed train eastward and one mixed train westward daily?

Mr. Rice: That is true.

Examiner Burchmore: How many cars are there in that train as a usual thing?

Mr. Rice: Well, an average of 15 cars.

Examiner Burchmore: This combination coach and 14 other cars?

Mr. Rice: Yes, sir.

Examiner Burchmore: Do you have any special logging trains besides this train?

Mr. Rice: We run logging trains, yes, sir.

Examiner Burchmore: Do you handle logs on this train?

Mr. Rice: Not on that train, no, sir.

Examiner Burchmore: Do you have any merchandise cars on which you handle less than carload traffic?

Mr. Rice: Frequently.

Examiner Burchmore: Do you put that on one of your box
4205 cars or in the combination car?

Mr. Rice: We put it in a box car and some of it in the combination car, according to conditions.

Examiner Burchmore: I intended to say flat car. You have no box cars?

Mr. Rice: We are using box cars in getting a good deal of our products from the woods, such as staves and forest products, and if we have to haul empties out to load the staves and we have sufficient, we load it in the box car.

Examiner Burchmore: You use Rock Island cars?

Mr. Rice: Yet, sir.

Examiner Burchmore: Do you pay per diem for those cars?

Mr. Rice: We do.

Examiner Burchmore: Do you desire to file that time table as an exhibit?

Mr. Rice: Yes.

(The time table so offered and identified, was received in evidence and thereupon marked Arkansas Southeastern Railroad Exhibit No. 3, Witness Rice, received in evidence January 23, 1911, and is attached hereto.)

Examiner Burchmore: Do you handle the United States mail?

Mr. Rice: No.

Examiner Burchmore: Any express matter?

4206 Mr. Rice: No.

Examiner Burchmore: Do you carry passengers for hire?

Mr. Rice: Yes, sir.

Examiner Burchmore: What is the extent of your passenger traffic?

Mr. Rice: Last year ending June 30th, 1910, it was $778.90, and for the five months ending November 1st, 1910, $300.45.

Examiner Burchmore: How many passengers did you carry during that year, have you the figures?

Mr. Rice: I have not the figures here before me. As well as I remember, about 1700. It is covered, however, by the report which you have.

Examiner Burchmore: Apparently 1096 passengers.

Mr. Rice: 1096?

Examiner Burchmore: Carried 15,578 miles. Your company has a hospital?

Mr. Rice: We employ a surgeon or physician, and we assess our hospital fee, and out of that the surgeon or physician or company's doctor is paid, out of that fee.

Examiner Burchmore: What was the extent of your total freight traffic for the last fiscal year?

Mr. Rice: $51,891.81.

4207 Examiner Burchmore: And the passenger traffic was how much?

Mr. Rice: $778.90.

Examiner Burchmore: You had other sources of revenue, according to the report, amounting to $608.60?

Mr. Rice: Yes, sir.

Examiner Burchmore: Making your total operating revenue $53,279.31?

Mr. Rice: That is correct.

Examiner Burchmore: On the other side of the book the operating expenses apparently aggregated——

Mr. Rice: $87,233.76.

Examiner Burchmore: What was your operating ratio then, 163.72?

(No reply.)

Examiner Burchmore: To revert to the freight traffic, the total tonnage of freight inbound and outbound for that year was how much?

Mr. Rice: 73,150 tons.

Examiner Burchmore: Have you figures there giving an analysis of that tonnage?

Mr. Rice: I have a statement showing the comparison between the Summit Lumber Company's traffic as compared with other

4208 shippers, which I would like to put in as part of the record.

Examiner Burchmore: That may be filed, but will you please summarize it verbally.

Mr. Rice: Lumber and logs—do you want the tonnage and revenue, your Honor?

Examiner Burchmore: Yes.

Mr. Rice: Lumber and logs, tons——

Mr. Cowan: Give it separately, lumber and logs.

Mr. Rice: Lumber, 22,961 tons. Logs, 42,635 tons. Revenue on the lumber and logs $47,031.21. That is under the heading of Summit Lumber Company business. Staves, other shippers, I refer to other than the Summit Lumber Company, 405 tons, revenue $397.

Shingles, other shippers, 1098 tons, $824.24.

Grain and grain products, Summit Lumber Company, 274 tons, $134.57; other shippers 85 tons, $42.74.

Hay, Summit Lumber Company, 130 tons, $59.80; other shippers 22 tons, $66.00.

Flour, other shippers, 84 tons, $46.10.

Other mill products, other shippers, 21 tons, $79.89.
Cotton and cottonseed, other shippers, 143 tons, $173.40.
Examiner Burchmore: What period is that?
4209 Mr. Rice: The year ending June 30th, 1910.
Examiner Burchmore: What is the figure for cotton and cottonseed?
Mr. Rice: 143 tons.
Examiner Burchmore: Is that all inbound or outbound?
Mr. Rice: Outbound.
Examiner Burchmore: Cotton and cottonseed are a product of agriculture.
Mr. Walter: There is also meal and hulls added.
Mr. Rice: I have the meal and hulls separated.
Examiner Burchmore: The report I have before me says 8 tons of cotton.
Mr. Rice: Of cotton?
Examiner Burchmore: And a total of 51 tons of products of agriculture of all kinds moving outbound.
Mr. Rice: You will find below there in miscellaneous tonnage that I threw all the tonnage that was not classified into miscellaneous, outside of merchandise.
Examiner Burchmore: What was the total again?
Mr. Rice: 143 tons, $173.40.
Cottonseed meal and hulls, 43 tons, $31.53.
Examiner Burchmore: I did not get that. You said you
4210 had how many tons of cotton and cottonseed?
Mr. Rice: 143.
Examiner Burchmore: How much of cottonseed hulls?
Mr. Rice: 43.
Examiner Burchmore: That means 186 all together?
Mr. Rice: 186.
Examiner Burchmore: This report shows 8 tons of cotton and 150 tons of miscellaneous freight outbound, which makes 158 total.
Mr. Walter: Was not the meal and hulls inbound?
Mr. Rice: Cottonseed meal and hulls, yes, that is inbound.
Examiner Burchmore: I just wanted that explained.
Mr. Walter: That is right.
Mr. Rice: Shall I proceed?
Examiner Burchmore: Yes.
Mr. Rice: Fertilizer, 164 tons, $148.30.
Scrap iron, 15 tons, $13.50.
Examiner Burchmore: Whose scrap iron is that?
Mr. Rice: It was from the station at Caloway, some scrap iron picked up by a merchant located at Caloway.
Coal, 4,431 tons, $1584.01.
Castings and machinery——
4211 Examiner Burchmore: You are getting down to the small items. Are there any other large items on the list?
Mr. Rice: No.
Examiner Burchmore: Give the total for the Summit Lumber Company and for the other shippers?
Mr. Rice: Summit Lumber Company, total 66,063 tons; revenue

$47,429.81; other shippers, tonnage, 7,087 tons; revenue $4,462. Percentage of the total, Summit Lumber Company 90.6; other shippers 9.4.

Examiner Burchmore: That is the percentage of tonnage or revenue?

Mr. Rice: Percentage of revenue, that is. The percentage of tonnage is 90.32 for the Summit Lumber Company, and 9.68 for the other shippers.

Examiner Burchmore: You say other shippers. Who do you include in that term "other shippers"?

Mr. Rice: All the shippers other than the Summit Lumber Company. That was my understanding at the meeting at New Orleans, that the tap lines were to render a statement showing separately the tonnage as shipped by the mill that is located on the line, and all other shippers.

Examiner Burchmore: That includes employés of the Summit Lumber Company?

4212 Mr. Rice: That includes everything that is not shipped in the name of or consigned to the Summit Lumber Company.

Examiner Burchmore: Does the Summit Lumber Company have any stores up there?

Mr. Rice: Not at all.

Examiner Burchmore: Well, this nine per cent of tonnage furnished by outside interests, is it your impression that the employés of the Summit Lumber Company received any substantial part of that nine per cent?

Mr. Rice: No, sir, not a substantial part. I have a statement here if it is in order to read it briefly; it is in detail, that I want to file as part of the record, showing our last five months' tonnage.

Examiner Burchmore: Suppose you give the totals only.

Mr. Rice: That is what I would like to give you. I am bringing this in to show the increase in our outside business. Total tonnage and revenue for the five months ending November, 1910, are as follows:

Summit Lumber Company, 25,519 tons, revenue $4,569.64.

Other shippers, 2,723 tons, revenue $2,830.19.

The percentage of the Summit Lumber Company to the whole is 61.7 and other shippers 38.3, that was the percentage of reve-

4213 nue. The percentage of tonnage of the Summit Lumber Company was 90.3 and other shippers 9.7.

Examiner Burchmore: Is that so much an increase in outside tonnage as a falling off in the lumber company's tonnage?

Mr. Rice: It is a great increase in the total outside tonnage. The lumber company's tonnage was comparatively the same as it would be for the same period in the previous year.

Examiner Burchmore: I want to know about this increase in outside tonnage. Is it not explained by the cotton movement during those months?

Mr. Rice: No, our cotton business so far has been very light. We have increased our tonnage principally in staves. We have a stave mill located on our line which has shipped a great many staves; in

fact between four and five times as much in this period of five months as they shipped the entire year last year. It is a new plant.

Examiner Burchmore: Who owns that plant?

Mr. Rice: A. P. Kirby.

Examiner Burchmore: Is Mr. Kirby a stockholder in the Summit Lumber Company?

Mr. Rice: Not connected in any way at all.

Examiner Burchmore: Does not the Summit Lumber
4214 Company furnish the stave timber to this mill?

Mr. Rice: I could not answer that question. I do not think they do altogether. They may furnish some, but I think Mr. Kirby has a good deal of timber interests on that part of the line. Mr. Kirby lives at Farmerville.

Examiner Burchmore: What is your passenger fare?

Mr. Rice: Five cents a mile.

Examiner Burchmore: Do you file that with the Interstate Commerce Commission?

Mr. Rice: We have, yes, sir.

Examiner Burchmore: Do you sell any tickets?

Mr. Rice: We do from Randolph. I have a copy of the passenger tariff if you would like it to go on record. It is filed with the Commission as stated.

Examiner Burchmore: There is no need to file it here if it is filed with the Commission.

Mr. Rice: Excuse me, I am wrong about the passenger tariff. It is not filed with the Interstate Commerce Commission. It is only filed with the Louisiana Commission.

Examiner Burchmore: I do not believe we want it.

Mr. Walter: No, you need not put it in. It is entirely state traffic, the passenger is.

4215 Examiner Burchmore: Do you publish and file with the Interstate Commerce Commission class or commodity rates applying between Randolph and stations on your line?

Mr. Rice: We do.

Examiner Burchmore: Are you a party to joint rates on class freight in connection with the Rock Island Railroad?

Mr. Rice: Yes, sir.

Examiner Burchmore: Any commodity rates other than on lumber?

Mr. Rice: Yes, sir.

Examiner Burchmore: Do you file with the Commission an index of your tariffs?

Mr. Rice: We do.

Examiner Burchmore: You also have joint rates on lumber over the Rock Island Railroad?

Mr. Rice: Yes, sir.

Examiner Burchmore: Where do those rates apply from?

Mr. Rice: From all of our stations that are listed on our station lists.

Examiner Burchmore: How many stations are there, five or six?

Mr. Rice: Five at present.

Examiner Burchmore: Those stations are Randolph——
4216 Mr. Rice: Randolph, Randolph Junction, McKay, Calloway, Laphiew and Luter.
Mr. Walter: And Tugwell City?
Mr. Rice: No operation. We have Tugwell City on our extension.
Examiner Burchmore: What are the junction points between the logging road and the Arkansas Southeastern?
Mr. Rice: Luter is a junction point. Lephiew is a junction between the Arkansas Southeastern and the Lephiew Shingle Mill. They have a shingle mill located at Lephiew and he has a logging line of his own seven or eight miles long at the station called Lephiew.
Examiner Burchmore: Does he operate that himself?
Mr. Rice: Yes, sir.
Examiner Burchmore: Is it a standard gauge logging road?
Mr. Rice: Yes, sir.
Examiner Burchmore: Does he use your cars at all?
Mr. Rice: Not in logging.
Examiner Burchmore: The Summit Lumber Company's private tracks are standard gauge?
Mr. Rice: Standard gauge.
Examiner Burchmore: What is the station at Randolph, is that the junction point between your line and the Rock Island?
4217 Mr. Rice: Yes, sir.
Examiner Burchmore: And Randolph Junction, is that the mill?
Mr. Rice: That is the terminus of the yard.
Examiner Burchmore: How far is it from Randolph to Randolph Junction?
Mr. Rice: About three quarters of a mile.
Examiner Burchmore: Then Randolph Junction must be the other side of the mill, in respect to the other railroad?
Mr. Rice: It is in respect to the Rock Island, yes, sir.
Examiner Burchmore: The rates on lumber from points on your line to interstate destination reached by the Rock Island are the same as the rates to the same points from the Rock Island station at Randolph, are they not?
Mr. Rice: Yes, sir.
Examiner Burchmore: You add no arbitraries, when it comes to a shipment originating on your line?
Mr. Rice: Interstate shipments, I understood you?
Examiner Burchmore: Yes.
Mr. Rice: Yes.
Examiner Burchmore: How about state shipments?
Mr. Rice: We have no through rates on state shipments.
Examiner Burchmore: What is the explanation for that
4218 failure to join in rates to state points?
Mr. Rice: Well, we have not so far been able to get satisfactory rates or divisions on local shipments. We have the matter under consideration. We have been holding back our joint state rates until we could make our connection at Farmerville, where we can handle it all at one time.

Examiner Burchmore: You mean the Rock Island would not give you any division on state business?

Mr. Rice: Well, they would give us a division, but not the division which we thought justified us in handling the business, that has been our experience so far.

Mr. Walter: Is it not true in Louisiana that the through rate is made up of the combination of locals on each line less than 10 per cent?

Mr. Rice: That is true where there is no established rate from the junction point.

Examiner Burchmore: Do the state authorities of Louisiana offer any objection to your entering into any joint rate with the Rock Island?

Mr. Rice: No, sir.

Examiner Burchmore: What are the divisions which your road receives from the Rock Island?

Mr. Rice: From one to four cents on lumber. On mer-
4219 chandise 12, 10, 9 and 7 on the first four classes.

Examiner Burchmore: On what traffic do you get a division of four cents on lumber?

Mr. Rice: Nebraska and Colorado points.

Examiner Burchmore: How long have you been receiving four cents on such traffic?

Mr. Rice: Approximately between three and four years, I believe, between three and four.

Examiner Burchmore: Did you ever receive more than four cents?

Mr. Rice: No, sir.

Examiner Burchmore: Were you aware that there are certain tap line roads in Louisiana and Arkansas that have been receiving five cents on Nebraska traffic?

Mr. Rice: I could not state positively.

Examiner Burchmore: You did not know that fact. When were divisions first accorded your road by the Rock Island?

Mr. Rice: From the information that I have at hand in 1907, June 16th, 1907.

Examiner Burchmore: Then it took you three years after your incorporation to persuade the Rock Island to give you divisions?

4220 Mr. Rice: I was not connected with the company that far back and I could not answer you in that respect.

Mr. Walter: The Rock Island until 1907, did not have much of a line down there south of Randolph, did it?

Mr. Rice: No. They took over the Arkansas Southern in 1906 and 1907, as well as I remember.

Examiner Burchmore: Did you formerly get a division in connection with the Arkansas Southern?

Mr. Rice: No, sir.

Examiner Burchmore: Sure about that?

Mr. Rice: Yes, sir.

Examiner Burchmore: Have you any contract with the Rock Island governing the division of the rate?

Mr. Rice: None other than the division sheets issued by them.

Examiner Burchmore: When did you commence to project or extend your line towards Farmerville?

Mr. Rice: As well as my knowledge of the matter goes, about two years ago.

Examiner Burchmore: What was the purpose of that extension?

Mr. Rice: Well, we figured we would open up territory and it would give us some good business especially on the passenger
4221 line. There is a good deal of farming country over on the Farmerville line that is not timber country, which we could develop, and it makes an opening from points around Farmerville which are almost isolated now. In other words, Farmerville is a very hard point to reach from the Rock Island now.

Examiner Burchmore: Did the Rock Island urge you to build over there?

Mr. Rice: Not that I know of.

Examiner Burchmore: I gathered from your response to the previous question that it was desirable for the Rock Island to get into Farmerville, and you were building over to open up that line.

Mr. Rice: It would be desirable to them, it would be a mutual arrangement in a way; it would give the Rock Island a great deal of business that they turn off to the Eldorado & Wesson now, for Farmerville.

Examiner Burchmore: It would also give you a second outlet to the markets for your lumber?

Mr. Rice: That is true. There has been a great deal of demand from the residents of Farmerville for our company to open up that line, as I stated before, for the reason that they are very much
4222 handicapped in getting in and out.

Examiner Burchmore: The mill of the Summit Lumber Company seems to be 500 or 600 feet, as I understood you to say, from the line of the Rock Island Railroad.

Mr. Rice: Yes, directly in a direct line.

Examiner Burchmore: And within three-quarters of a mile by rail.

Mr. Rice: That is true.

Examiner Burchmore: Who furnishes the cars for outbound movements of lumber?

Mr. Rice: The Rock Island.

Examiner Burchmore: And the Arkansas Southeastern places those empty cars at the mill for loading, and subsequently moves them out to the Rock Island?

Mr. Rice: The Arkansas Southeastern performs the service They have an interchange track for receiving them from the Rock Island.

Examiner Burchmore: On a shipment of lumber from the Randolph plant destined say to St. Louis, what point would be shown as the point of origin?

Mr. Rice: Luter, La.

Examiner Burchmore: You bill it back to the woods and
4223 apply the milling in transit rate?

Mr. Rice: We bill it as originating at Luter, and apply the milling in transit rate.

Examiner Burchmore: How are the logs taken up to the mill?

Mr. Rice: By the Arkansas Southeastern locomotive; the Arkansas Southeastern operates the logs from the delivering point on the Summit Lumber Company's logging line to the mill.

Examiner Burchmore: Then you interchange the traffic, practically speaking, with the Summit Lumber Company's private road at junction points?

Mr. Rice: At the junction point, we furnish them the empties to load their logs on, and return them empty again after hauling to the mill.

Examiner Burchmore: What compensation do you receive for handling the logs up to the mill?

Mr. Rice: That is covered by the tariffs, the through rate covers the handling of the logs from the woods to the mill.

Examiner Burchmore: You have no agent at Luter?

Mr. Rice: No, sir, not at present. The agent at Randolph issues bills of lading at present.

Examiner Burchmore: Does he issue bills of lading before the logs reach the mill?

Mr. Rice: No.

4224 Examiner Burchmore: There is as a matter of fact no billing covering the movement into the mill?

Mr. Rice: No billing covering that movement of the logs; it is handled on the conductor's train sheet.

Examiner Burchmore: The conductor makes that sheet out as he is on his way down to the mill and hands it in.

Mr. Rice: When he is leaving the junction from the logging road he makes it and turns it in with his report showing the number of cars he has handled in the train.

Examiner Burchmore: In 1909 this railroad company apparently had an operating deficit of $25,000 or $26,000.

Mr. Rice: That is correct, as well as I remember.

Examiner Burchmore: How did you take care of that deficit?

Mr. Rice: Well, Messrs. Silverthorne, as I stated, had been paying the operating expenses of the road.

Examiner Burchmore: They paid it on account of their capital stock?

Mr. Rice: On account of their capital stock.

Examiner Burchmore: Is the same true of your deficit for 1910, which was apparently $38,000?

Mr. Rice: It is.

4225 Examiner Burchmore: I want to ask one or two questions about your operating expenses. The mileage of your road is about 20 miles of main line?

Mr. Rice: 20.6.

Examiner Burchmore: Your maintenance of way and structure account for the last fiscal year was $43,777.25. That seems to be $2,200 a mile.

Mr. Rice: Well, part of that expense, as I stated earlier in the hearing, was owing to the fact that we were at that time maintain-

ing the logging spurs, that is, part of that period, in fact up to the 1st of May, 1910. Since that time we have maintained only the main line; in other words the lumber company looks after their logging spurs. That accounts for the heavy maintenance for the railroad.

Examiner Burchmore: What is the length of those logging spurs?

Mr. Rice: Between 12 and 13 miles in all, so far as I know.

Examiner Burchmore: That is the total length of your road at that time was about 32 or 33 miles?

Mr. Rice: 36 miles, about.

Examiner Burchmore: Then you think it did cost you nearly $1,500 a mile to maintain your road?

Mr. Rice: Yes, sir.

4226 Examiner Burchmore: Is there anything about the character of the road which requires a heavy maintenance expense?

Mr. Rice: Not having any ballast it requires a previous heavy section force, considering the number of tons of logs handled, to maintain the track.

Examiner Burchmore: Then it cost a good deal to keep moving these logging spurs around for the lumber company too, did it not?

Mr. Rice: We had nothing to do with moving the logging spurs.

Examiner Burchmore: Did you not furnish the rails and fastenings, and so forth?

Mr. Rice: No, the steel belonged to the Summit Lumber Company.

Examiner Burchmore: When did you sell these locomotives to the lumber company?

Mr. Rice: The 1st of May, 1910.

Examiner Burchmore: Previous to that time you had been operating the logging trains clear up into the woods?

Mr. Rice: Yes, sir.

Examiner Burchmore: What did they pay you for taking the logs out of the woods?

Mr. Rice: $2.00 a thousand.

4227 Examiner Burchmore: In addition to your present pay?

Mr. Rice: That is right.

Examiner Burchmore: Do you remember what that amounted to per year or per month?

Mr. Rice: Well, approximately $4,000 a month.

Examiner Burchmore: Has this road ever paid any dividends?

Mr. Rice: It has not.

Examiner Burchmore: Lost money all the time?

Mr. Rice: Yes, sir.

Examiner Burchmore: That is all I have to ask at this time.

Mr. Walter: When will the steel be laid into Farmerville, speaking approximately?

Mr. Rice: Sixty days.

Mr. Walter: Has the corporation taken any action looking towards any further construction?

Mr. Rice: A resolution has been passed by the Board of Directors to extend the road with all possible haste to Monroe, La.

Mr. Walter: That is shown on Exhibit No. 2 of the proposed route?

Mr. Rice: Yes, sir, on the profile No. 2.

Mr. Walter: What sort of territory is that through which
4228 the Arkansas Southeastern extends?

Mr. Rice: In general, do you mean?

Mr. Walter: Yes, just describe it briefly.

Mr. Rice: Very good farming country for approximately half of the mileage between Farmerville and Randolph, opening up and developing a very good farming country, stock raising, cotton and peanuts.

Mr. Walter: Have you a list of the important industries or shippers along your line?

Mr. Rice: I have.

Mr. Walter: We offer that list in evidence, showing the shippers, with the nature of the commodity and the station where located.

(The paper so offered and identified, was received in evidence and thereupon marked Arkansas Southeastern Railroad Exhibit No. 5, Witness Rice, received in evidence January 23, 1911, and is attached hereto.)

Examiner Burchmore: Are any of those persons employed by the Summit Lumber Company?

Mr. Rice: That are shown on that sheet?

Examiner Burchmore: Yes.

Mr. Rice: None at all, other than the Summit Lumber
4229 Company plant, of course, which is included in the list of shippers.

Mr. Walter: Has there recently been located a hardwood mill on that line?

Mr. Rice: Yes, at Lophiew, La.

Mr. Walter: What is the name of it?

Mr. Rice: W. F. Usrey & Company.

Mr. Walter: When did that concern commence to do business?

Mr. Rice: The first shipment made by them was December 9th, 1910.

Mr. Walter: About what was their output daily?

Mr. Rice: I am informed that their output at present is 20,000 feet per day of hardwood lumber.

Mr. Walter: Can you state with reasonable certainty whether or not there is a probability of a material and substantial increase of the tonnage and of the passenger service especially after you have completed your Farmerville connection?

Mr. Rice: Well, there is no question as to the passenger business after we get into Farmerville. I should say on a very conservative figure we will have five times the passenger business we have now.

Mr. Walter: What about freight tonnage?

4230 Mr. Rice: The freight tonnage ought to treble itself.

Mr. Walter: I think you may ask him, Judge Cowen, if you care to.

Mr. Cowen: How long have you been with the road?
Mr. Rice: 16 months.
Mr. Cowen: Has Mr. Blackwell bought in there before you came?
Mr. Rice: No, sir.
Mr. Cowen: He bought in afterwards?
Mr. Rice: Afterwards.
Mr. Cowen: Did you know anything about the occasion of his buying in at all?
Mr. Rice: I am not familiar with it at all.
Mr. Cowen: Can you imagine any reason why a man would want to make an independent investment in a railroad losing money like this one is?
Mr. Rice: I could not answer that question. I don't know his object at all, as I stated. I don't know anything of what his intentions are or what his object was in buying the stock.
Mr. Cowen: Do you know anything about his business relations with the Summit Lumber Company?
4231 Mr. Rice: I understand he has no connection whatsover.
Mr. Cowen: But do you know anything about it?
Mr. Rice: Only from information which has been given me.
Mr. Cowen: Have you ever wondered why he bought this stock if he was not connected with the lumber company?
Mr. Rice: No.
Mr. Cowen: Ever make any inquiry about that?
Mr. Rice: No, sir.
Mr. Cowen: What sort of lumber does the Summit Lumber Company handle, pine?
Mr. Rice: Pine lumber.
Mr. Cowen: What sort of an outlet did they have before the Rock Island Railroad was built, do you know?
Mr. Rice: I am not familiar with it that far back.
Mr. Cowen: Why is not Mr. Blackwell here, if his connection with the road is longer than yours?
Mr. Rice: I could not state that.
Mr. Cowen: Why are not these other men here, Silverthorne, to give the history of the thing?
Examiner Burchmore: Mr. Silverthorne is here, is he not?
Mr. Cowen: Is he?
Mr. Rice: He is in the city.
4232 Mr. Cowen: Do you know who built this railroad to begin with?
Mr. Rice: The Summit Lumber Company.
Mr. Cowen: How long did that company own it before it became an incorporated railroad, do your records show that?
Mr. Rice: According to my records approximately six years.
Mr. Cowen: It was incorporated at what date?
Mr. Rice: October, 1904, I believe is the date.
Mr. Walter: November 15th.
Mr. Rice: November 15th, 1904.
Mr. Cowen: You said there was paid for it $254,000.
Mr. Rice: Yes, sir.

Mr. Cowen: Do your records show how the payment was made?

Mr. Rice: My record shows that it was credited up to the Summit Lumber Company.

Mr. Cowen: Credited to the Summit Lumber Company, on whose books?

Mr. Rice: On the railroad books.

Mr. Cowen: And do your records show that it still stands that way?

Mr. Rice: Yes, sir.

Mr. Cowen: They performed all of the important offices of buying it but paying for it.

4233 Mr. Walter: He did not understand your question, I guess.

Mr. Rice: I don't understand.

Mr. Cowen: You said it was credited to the lumber company on the railroad company's books.

Mr. Rice: Yes, sir.

Mr. Cowen: And I asked you if it still stood that way and you said yes.

Mr. Rice: Yes.

Mr. Cowen: Then I remarked they did all the important things about buying it except paying for it, the railroad company did everything about buying the railroad except paying for it.

Mr. Rice: They still owe for it.

Mr. Cowen: And issued stock on the credit of what it owed?

Mr. Rice: Well, the Messrs. Silverthorne financed the road and the stock was issued to them in lieu of their financing the road.

Mr. Cowen: Well, they financed it originally when it was built.

(No reply.)

Mr. Cowen: Did they finance this $254,000 credit?

Mr. Rice: Yes, I understand they did.

4234 Mr. Cowen: By building the road previously?

Mr. Rice: Yes, sir.

Mr. Cowen: And when the railroad company took over the property it issued capital stock, is that correct?

Mr. Rice: Issued capital stock.

Mr. Cowen: How much did it issue?

Mr. Rice: $500,000.

Mr. Cowen: For which the railroad company had paid nothing?

Mr. Rice: Yes, the railroad company had paid nothing for it.

Mr. Cowen: How much money do you think Mr. Blackwell paid for the portion of the stock in that sort of a concern?

Mr. Rice: I could not state.

Examiner Burchmore: I suggest this witness did not know about Mr. Blackwell. Cannot Mr. Silverthorne appear later in the day?

Mr. Walter: I think he can, yes, sir.

Examiner Burchmore: Well, we will request that he appear later.

Mr. Walter: All right. Let me just ask, Silverthorne furnished this $254,000?

Mr. Rice: Yes, sir.

4235 Mr. Walter: And then took the stock in exchange for the money he had advanced and was to advance?

Mr. Rice: That was the arrangement.

Mr. Cowen: I am interested in that maintenance of way account. I find it cost you as much for maintenance of way and structures as it does the Baltimore & Ohio per mile of line, and I would like some explanation of that, because it seems so unusual.

Mr. Rice: Well, as I stated previously, nine months in the last fiscal year the Arkansas Southeastern Railroad was operating the woods spurs.

Mr. Cowen: That would have made altogether how many miles?

Mr. Rice: Something like 36 miles in all.

Mr. Cowen: So it would have made something like $1200 a mile even then?

Mr. Rice: Yes, something like that. Those woods spurs, of course, are moved around a great deal.

Mr. Cowen: But you said you did not cover the expense of moving them.

Mr. Rice: If I did I made an erroneous statement. We operated the woods spurs at that time, whatever work was necessary in shifting the track.

4236 Mr. Cowen: Was the track shifted during that period?

Mr. Rice: From what I know of logging—I am not very familiar with logging—but I understand they are, because we had a steel gang which was continually working, about 40 men in the steel gang, so I judge they were shifting their track from time to time.

Mr. Cowen: Have you any separate account showing what it cost for maintenance of way and structures on this line outside of logging spurs?

Mr. Rice: No.

Examiner Burchmore: What has it cost you for the five months of this year to maintain your own line?

Mr. Cowen: Yes, that is a pertinent question.

Mr. Rice: I have not those figures before me. I can file them during the day, or tomorrow.

Mr. Walter: We will file them.

Examiner Burchmore: Or we will have Mr. Silverthorne give them when he comes.

Mr. Walter: He has nothing to do with that management.

Examiner Burchmore: Well, you can advise us when he comes.

Mr. Rice: Yes, I have the reports with me, but not in the room. Our maintenance, however, has decreased 50 per cent approxi-

4237 mately since we abandoned the operation of the logging spurs.

Mr. Cowen: You mean the aggregate or per mile?

Mr. Rice: The aggregate, the gross.

Mr. Cowen: I see you have a large list of officers here for this short mileage and small tonnage. Do they perform any service in connection with this railroad, the President, Vice President, Superintendent—there is a long list of officers.

Mr. Rice: All of them perform service.

Mr. Cowen: Do you have interchange passes with other railroads?

Mr. Rice: Some, those who give them to us we interchange with.

Mr. Cowen: All your officers get passes from the Rock Island?

Mr. Rice: Not all of them, no, sir.

Mr. Cowen: For what reason?

Mr. Rice: We have never requested it.

Mr. Cowen: Do the officers of this railroad who have passes from the Rock Island have anything to do with the lumber company's business, any of them?

Mr. Rice: Not that I know of.

4238 Mr. Cowen: I thought you said some of them are officers of the lumber company?

Mr. Rice: They are. At present none of our officers have any Rock Island transportation.

Mr. Cowen: None of your officers?

Mr. Rice: None of them, no.

Mr. Cowen: At present, this is right after the 1st of January.

Mr. Rice: Yes; I say at present.

Mr. Cowen: Before the 1st of January they did?

Mr. Rice: Some of them had Rock Island transportation before the 1st of January.

Mr. Cowen: And those were officers connected with the lumber company, some of them?

Mr. Rice: One of them that I know of.

Mr. Cowen: Who is that?

Mr. Rice: The General Superintendent.

Mr. Cowen: You spoke of some passenger traffic?

Mr. Rice: Yes.

Mr. Cowen: Are those mainly employés of the lumber company?

Mr. Rice: No, sir.

4239 Mr. Cowen: Any of them employés of the lumber company?

Mr. Rice: Some of them.

Mr. Cowen: Do you charge the employés of the lumber company anything?

Mr. Rice: Yes, sir.

Mr. Cowen: So when they are going back and forth from the mill or any other place to the woods they pay the same as others?

Mr. Rice: The same rate of fare.

Mr. Cowen: I was curious to know who has scrap iron out there to ship?

Mr. Rice: Well, as well as I remember, I could not state definitely as to the consignor, but at this station of Caloway there are several little cotton gins located around there, and a carload of scrap was picked up and shipped to Eldorado to the Eldorado Foundry, and beyond that I could not state definitely.

Mr. Cowen: I thought maybe it was old sawmill scrap.

Mr. Rice: No, there is no sawmill out there at that particular place.

Mr. Cowen: Well, you have a single mill?

Mr. Rice: Yes, sir.

4240 Mr. Cowen: I see by this map there is a logging road that seems to belong to somebody that has either a shingle mill or a pine mill located there.

Mr. Rice: Shingle mill at Lephiew.

Mr. Cowen: Does he get a division of the rate?

Mr. Rice: No, he gets no division.

Mr. Cowen: Does he pay the same rate on his stuff in and out as prevails at the junction point of the Rock Island Road?

Mr. Rice: On interstate traffic, yes.

Mr. Cowen: And on state traffic he does not?

Mr. Rice: On state traffic he does not; he pays the local.

Mr. Cowen: Pays the local rate to the junction point?

Mr. Rice: Less 10 per cent.

Mr. Cowen: There is a hardwood man who has a mill on your line?

Mr. Rice: Yes, sir.

Mr. Cowen: Does the same thing prevail with him?

Mr. Rice: The same thing prevails with him as with the shingle man.

Mr. Cowen: Then somebody has a pine mill.

Mr. Rice: A man named W. T. Carr.

Mr. Cowen: How is it as to him?

4241 Mr. Rice: He gets the same rate that any of the other shippers get from stations on our line.

Mr. Cowen: Does he get the same rate on his lumber as prevails at the point where you join with the Rock Island?

Mr. Rice: Yes, sir, on interstate.

Mr. Cowen: But on state traffic he would have to pay the local rate?

Mr. Rice: Yes, sir.

Mr. Cowen: Since the Louisiana Commission intervened in here and seemed to be so anxious to help the tap liners, I wish you would tell me why it is, if you know, they did not make joint through rates for the State of Louisiana?

Mr. Rice: They are making joint through rates about as fast as they can come to them.

Mr. Cowen: They have had a long time in which to do this.

Mr. Rice: That is true, but they are continually issuing orders for joint through rates; for instance, we have the petroleum rate, and then they came along with the rice rate, and then on native grown hay.

Mr. Cowen: But they have not made it on lumber?

Mr. Rice: They have not made it on lumber.

Mr. Cowen: You say that is pretty rich farming country?

4242 Mr. Rice: It is considered pretty good farming country.

Mr. Cowen: I see you shipped out 143 tons of cotton and cottonseed?

Mr. Rice: Yes.

Mr. Cowen: And shipped in 164 tons of fertilizer?

Mr. Rice: Yes, sir.

Mr. Cowen: I was curious to know how it was that you got such a farming country that cannot ship out over 143 tons of cotton and cottonseed and had to ship in 164 tons of fertilizer.

Mr. Rice: What I mean by good farming country, I meant the soil is good, it is just a question of developing it, which the farmers are commencing to do now.

Mr. Cowen: A good place to use fertilizer?

Mr. Rice: Well, on some crops, yes, sir.

Mr. Cowen: What other crops are there? There does not seem to be anything else; you ship in hay, flour and grain and ship out cotton and cottonseed.

Mr. Rice: There will be approximately 100 cars of peanuts shipped out over our line this year. I get that from good authority.

Mr. Cowen: The fertilizer is shipped in for the peanuts?

Mr. Rice: They won't need any fertilizer for that.

4243 Mr. Cowan: Is it used for the cotton?

Mr. Rice: Yes, sir.

Mr. Cowan: It takes a ton of fertilizer for a ton of cotton and cottonseed, does it?

Mr. Rice: You understand, I do not say we got all the cotton that was raised over there. The Iron Mountain runs within five or six miles of our tracks and they have through rates at present.

Mr. Cowan: Maybe they ship in some fertilizer also.

Mr. Rice: I don't know about that, of course.

Mr. Walter: You do not know that all of that fertilizer went to the use of things that were shipped out. They might use it for their own consumption.

Mr. Rice: Of course we did not get all the product out.

Mr. Cowen: If the witness testifies they can consume fertilizer except in agriculture——

Mr. Walter: The people have to have something to live on, you know.

Mr. Cowan: But they do not eat fertilizer.

Mr. Walter: They use it to grow things with.

Mr. Rice: As a matter of fact, fertilizer is used very extensively all through that country wherever they grow anything, you

4244 know that.

Mr. Cowen: That is the reason I thought it was not such a good farming country. Now, you are acquainted with Mr. Carlisle, who was on the stand this morning.

Mr. Rice: No.

Mr. Cowen: You have never made any overtures to him to sell him this road?

Mr. Rice: I do not know him at all.

Mr. Cowen: In regard to the staves, I believe you asked, Mr. Examiner, in regard to the staves?

Examiner Burchmore: Yes.

Mr. Cowen: This grain and hay was all inbound shipments?

Mr. Rice: Yes, sir.

Mr. Cowen: Is it not a fact that some of that was shipped in to "shipper's orders, notify," and some is taken by the lumber company?

Mr. Rice: Yes, sir, some of it.

Mr. Cowen: Do you know how much?

Mr. Rice: I believe I read that, what the Summit Lumber Company got.

Mr. Cowen: You said your list just contained what was shipped

by the lumber company, and I thought these "shipper's orders, notify," would not be on your list.

4245 Mr. Walter: It is divided both as to the Summit Lumber Company and others.

Mr. Rice: I show the Summit Lumber Company in one list and the others separate.

Mr. Cowen: Well, I thought the settlers would raise all the grain and more too.

Mr. Rice: That is not a grain country.

Examiner Burchmore: He showed most of the grain was assigned to the lumber company.

Mr. Walter: Yes, 274 tons against 85.

Mr. Cowen: Going to the question of rates, you say you get four cents division on stuff shipped to Colorado and Nebraska?

Mr. Rice: Yes, sir.

Mr. Cowen: Do you get that to Oklahoma, certain groups?

Mr. Rice: Three and a half cents to Oklahoma.

Mr. Cowen: Have you the aggregate amount of divisions received on lumber? I think you stated the number of tons of lumber?

Mr. Rice: Yes, sir.

Mr. Cowen: Have you the aggregate of the divisions you received?

Mr. Rice: The aggregate amount in revenue?

4246 Mr. Cowen: From divisions, so as to divide the tonnage into it so as to see how much you actually get on the average.

Mr. Rice: In revenue?

Mr. Cowen: Yes, or maybe you have the figures as to the amount.

Mr. Rice: No. Do you mean per annum?

Mr. Cowen: What I am trying to get at is to get these figures to determine how much is the actual average you get from divisions. You said you got from one cent to four cents.

Mr. Rice: Our average is about two and a half cents at present.

Mr. Cowen: Will you please state the aggregate amount you receive or divisions on lumber?

Mr. Rice: The aggregate amount?

Mr. Cowen: Yes.

Mr. Rice: The aggregate, 12 cents.

Mr. Cowen: You received during the year in your settlements with the other railroads, the Rock Island, so many dollars, that they paid you out of divisions alone.

Mr. Rice: I believe I understand your question now.

Mr. Cowen: How much was it, and what was the amount,

4247 and then you can divide the tonnage into it which you gave the Rock Island, and that will give the amount.

Mr. Rice: Approximately $1200 a month.

Mr. Cowen: Do you recollect the average for the year?

Mr. Rice: Something like $15,000, I should think.

Mr. Cowen: But you have not the exact figures?

Mr. Rice: No.

Mr. Cowen: And the tonnage?

Mr. Rice: I have the tonnage. The tonnage was 22,961 on lumber.

Mr. Cowen: Does most of your lumber go to the points where you get the four cent division?

Mr. Rice: No, sir, not most of it; it is pretty well divided. I should say, between Central Freight Association territory and Western territory.

Mr. Cowen: Just please file when you come back on the stand the exact amount you received from the Rock Island in divisions on lumber and the tonnage which was thus handled that produced that division.

Mr. Rice: For what period?

Mr. Cowen: For the year ending June 30th, 1910.

Mr. Rice: The total amount of revenue received from the Rock Island together with the tonnage on lumber for the year?

4248 Mr. Cowen: Yes, so we can divide the tonnage into the earnings from that source. Now I understood you to say you performed the service of delivering the cars to your loading track, of the Summit sawmill?

Mr. Rice: We do.

Mr. Cowen: And you receive them at the Rock Island junction?

Mr. Rice: At Randolph, the Rock Island junction at Randolph.

Mr. Cowen: And haul them how far?

Mr. Rice: Three-quarters of a mile.

Mr. Cowen: And the lumber company loads them?

Mr. Rice: Yes, sir.

Mr. Cowen: And you haul them back?

Mr. Rice: Yes, sir.

Mr. Cowen: Have you formed any estimate of what it cost you to perform that service?

Mr. Rice: No, I could not state that.

Mr. Cowen: Have you any idea about that?

Mr. Rice: No, I could not make any estimate.

Mr. Cowen: Have you any estimate of what it cost you to haul the logs from the Summit Company's junction with the spur

4249 line to the unloading track?

Mr. Rice: I have never made any estimate.

Mr. Cowen: How far is it?

Mr. Rice: 17 miles.

Mr. Cowen: This pine mill has a logging road.

Mr. Rice: Not the pine mill but the shingle mill.

Mr. Cowen: What sort of shingles do they make?

Mr. Rice: Cypress.

Mr. Cowen: What division do you get from the Rock Island Road on that?

Mr. Rice: Two cents higher than on pine.

Mr. Cowen: What do you get on hardwood?

Mr. Rice: The same as pine.

Mr. Cowen: Four cents?

Mr. Rice: One to four cents, nothing over four.

Mr. Cowen: Is the shingle mill located right on your line or off the line?

Mr. Rice: Right on the line.

Mr. Cowen: Who sets the cars in there for loading?

Mr. Rice: The Arkansas Southeastern.

Mr. Cowen: And it takes the cars out?

Mr. Rice: The Arkansas Southeastern does.

4250 Mr. Cowen: Your road has been operating on a deficit. I believe you said Mr. Silverthorne paid that?

Mr. Rice: Yes, sir.

Mr. Cowen: How does he get the money back?

Mr. Rice: Well, he holds the stock of the company.

Mr. Cowen: If the company keeps on earning a deficit of course the stock will be worth minus something.

Mr. Rice. That is true, but we hope however——

Mr. Cowen: You do not know, of course, how much he got from Mr. Blackwell?

Mr. Rice: No, I am not familiar with that transaction at all.

Mr. Cowen: Mr. Blackwell is not here?

Mr. Rice: No.

Examiner Burchmore: Mr. Silverthorne is to be here.

Mr. Cowen: You say you are going to build to Monroe?

Mr. Rice: The resolution has been passed to that effect.

Mr. Cowen: How is that to be financed?

Mr. Rice: I could not state. That was at a recent meeting——

Mr. Cowen: And this Farmerville, is it——

Mr. Rice: The Farmerville extension.

Mr. Cowen: Who is to pay for that?

4251 Mr. Rice: I presume it will be financed the same as the other has been.

Mr. Cowen: The Iron Mountain reaches Farmerville, does it, or by a branch line?

Mr. Rice: Yes.

Mr. Cowen: Any sawmill at Farmerville?

Mr. Rice: Not that I know of.

Mr. Cowen: Is the timber of the Summit Lumber Company on the line extending to that place?

Mr. Rice: No.

Mr. Cowen: How much timber land does the Summit Lumber Company own?

Mr. Rice: I could not state. I know they have no timber on our Farmerville extension, in fact there is no timber on that line.

Mr. Cowen: Have they timber on your other line?

Mr. Rice: Yes, sir.

Mr. Cowen: How much timber does this hardwood mill own?

Mr. Rice: I could not state.

Mr. Cowen: Do they get most of their hardwood from the Summit Lumber Company?

Mr. Rice: I think so.

Mr. Cowen: Do you know whether that enterprise is owned

4252 by the same people who own the Summit Lumber Company?

Mr. Rice: It is owned by outside parties exclusively.

Mr. Cowen: You do not know what sort of contract they have with the Summit Lumber Company?

Mr. Rice: No.

Mr. Walter: We will give you that in just a moment.

Mr. Coleman: Will you turn to your traffic statement, Mr. Rice, and get the coal item?

Mr. Rice: The coal item?

Mr. Coleman: Yes. Have you that divided between the Summit Lumber Company and outsiders?

Mr. Rice: No, I haven't it divided.

Mr. Coleman: You do send some coal in for outside people?

Mr. Rice: For the Summit Lumber Company, yes.

Mr. Coleman: Don't any of the other mills get any?

Mr. Rice: No. The Summit Company burns wood mostly, and the other mills burn wood altogether.

Mr. Coleman: Do you aim to give the same rates on the inbound shipments to all of the Arkansas Southeastern shippers, do you make preferences in favor of the lumber company?

Mr. Rice: No.

Mr. Coleman: I may not have this correctly, but I thought
4253 you said their inbound shipments for the Summit Company of hay were 130 tons; is that right?

Mr. Rice: Yes.

Mr. Coleman: And the revenue $59.00.

Mr. Rice: Yes, sir.

Mr. Coleman: And other shippers 22 tons, revenue $66.00?

Mr. Rice: Yes.

Mr. Coleman: You charged them $7.00 more for hauling 22 tons, for the outsiders, than for hauling 130 tons for the Summit Lumber Company?

Mr. Rice: That is true. That shipment for outsiders was local shipments from a store in Randolph to the store in the woods. The Summit Lumber Company shipments are billed through to our station at Luter with some exceptions, but this other shipper, it was a local shipment to him.

Mr. Coleman: Where did his shipments come from?

Mr. Rice: I could not state.

Mr. Coleman: Why wouldn't he get the through rate?

Mr. Rice: He would. We have a merchant on the line who ships through frequently. You will notice on his grain he got 85 tons of grain and most of that was billed through——

Mr. Coleman: I am referring to the hay now.

Mr. Rice: That was a local shipment.

4254 Mr. Coleman: But he had the privilege of sending it through, did he?

Mr. Rice: He had the privilege of ordering it wherever he purchased it, billed through.

Mr. Coleman: But he did not do it?

Mr. Rice: He possibly got out of hay; he has a store at Randolph, and he may have been out at the other store and for that reason could not wait until he got it through from Kansas City or St. Louis or wherever he might buy it.

Mr. Coleman: He has a separate house at Randolph?

Mr. Rice: This particular merchant has.

Mr. Coleman: Your shipments all come billed through to Luter?

Mr. Rice: Yes, sir.

Mr. Coleman: It is up in the woods?

Mr. Rice: It is the closest point to the camp.

Mr. Coleman: The local man at Randolph, does he pay the local down to Luter?

Mr. Rice: He pays the local when he makes any local shipments. When he makes through shipments, he would participate in the through shipment or rate.

Mr. Coleman: How would he make a through shipment?

4255 Mr. Rice: Take out a through bill of lading at Caloway.

Mr. Coleman: I understood you only had one agent, at Randolph?

Mr. Rice: That is true, but the agent there could issue the bill of lading the same as any other freight prepay station on the line, the agent in the opposite direction would handle the bill of lading.

Mr. Coleman: So you do not issue the bill of lading always where the shipment originates?

Mr. Rice: Not always, but as a rule in most instances those fellows have the bill of lading made out and handed to the conductor, and if they don't have it ready, they hand him the shipping instructions and he carries it to Randolph, and the regular bill of lading is returned to the shipper.

Mr. Coleman: The same man, does he pay the local out to Randolph?

Mr. Rice: Yes, he pays the local on his interstate shipments, and the local less 10 per cent on his state shipments.

Mr. Coleman: You do not mill the hardwood at all, do you, the Summit Lumber Company?

Mr. Rice: The Summit Lumber Company, no; it is outside operations.

4256 Mr. Coleman: The hardwood that is furnished to this same man is a by-product, the little that is mixed in with your main line holdings.

Mr. Rice: To some extent. I think the Summit Lumber Company furnishes the stave man, but I think he buys from outside holders. I could not say.

Mr. Coleman: That probably applies to Usrey & Company?

Mr. Rice: Usrey & Company runs the hardwood mill, yes.

Mr. Coleman: Those three section gangs, how many men in each gang?

Mr. Rice: They would average three all the year round.

Mr. Coleman: You have spoken of one gang of forty men.

Mr. Rice: That was the steel gang, when we were maintaining the logging spurs.

Mr. Coleman: Where were those three gangs located?

Mr. Rice: The first one is located at Randolph, the second at ten miles out at McKay and the third one at Luter, which is the junction with the Farmerville Branch, that is where the Farmerville Branch begins——

Mr. Coleman: That is also a junction with the logging road?
Mr. Rice: Yes.
Mr. Coleman: Do they aid the lumber company any?
4257 Mr. Rice: No.
Mr. Coleman: Never do?
Mr. Rice: No.
Mr. Coleman: Never help them?
Mr. Rice: It keeps them busy looking after their own end. The lumber company have possibly more men on the tracks than we do, on account of moving the steel.
Mr. Coleman: How many locomotive crews have you got up on the logging road?
Mr. Rice: What are you speaking of, the Summit Lumber Company's logging road?
Mr. Coleman: Yes.
Mr. Rice: I could not state that. I am not familiar with their logging arrangements.
Mr. Coleman: You said you sold three locomotives to the lumber company?
Mr. Rice: Yes.
Mr. Coleman: Are they in use?
Mr. Rice: So far as I know. I could not state definitely.
Mr. Coleman: You do not know as to that?
Mr. Rice: I could not state positively. I know they used two of them, and I could not say whether the three are actively en-
4258 gaged all the time.
Mr. Coleman: Do they run over their rails down to Luter or Randolph?
Mr. Rice: To Luter only.
Mr. Coleman: Then the other engine picks them up there?
Mr. Rice: The Arkansas Southeastern handle the logs from and to the junction point.
Mr. Coleman: The lumber company pays the railroad company for hauling the logs from Luter to the mill?
Mr. Rice: No.
Mr. Coleman: Where do they begin to charge?
Examiner Burchmore: I think we have been over that rather fully. He said the joint rate paid for hauling the logs into the mill.
Mr. Rice: The milling in transit, the tariff provided it.
Mr. Coleman: It occurred to me the road was getting paid twice. Haven't they a trackage agreement?
Mr. Rice: No.
Examiner Burchmore: Mr. Coleman, you will recall they formerly received $2.00 a car for hauling the logs up to the junction point with the main line in the days when they operated the logging spurs.
4259 Mr. Rice: Yes, that is what he probably had confused.
Mr. Coleman: I see now.
Mr. Rice: That has been discontinued.
Mr. Coleman: Do you know the reason several of your old systems were discontinued about that time, do you know a reason for that?

Mr. Rice: The reason was that we decided that inasmuch as the tariffs covered the transportation of the logs from the junction of the logging road to the mill, we could not or should not make any charge for that service. However, as I understand it, that was before my time, but it was in the way of a mutual arrangement in which the lumber company would pay for the hauling of the logs and they took care of their logging spurs, but we decided it was not a fair division, that is the railroad was losing money by it, and the lumber company should look after their logging in every detail.

Mr. Cowen: I want to ask the witness some questions in regard to the five months' comparison, which I overlooked. You stated you earned from the Summit Lumber Company $4,569.64 and $2,830.19 from others.

Mr. Rice: Yes.

Mr. Cowen: Will you state what the operating expenses were for that five months?

4260 Mr. Rice: You have asked for that and I am going to file that.

Mr. Cowen: I did not know I had asked for that.

Mr. Rice: Yes, you asked me for the operating expenses for those five months, which I said I have not here, but I have them in the building. The monthly reports will cover that.

Mr. Cowen: I would like that.

Mr. Rice: Yes, sir.

Mr. Cowen: It is shown you handled 2,723 tons, or a little over $1.00 a ton whereas in the previous year you handled 7,087 tons at $4,462 or about 60 cents a ton. I wanted to ask whether there was any change in the rates.

Mr. Rice: No, but in the previous year there was a lot of coal on which we only got 25 cents a ton and in this statement there was no coal at all.

Mr. Cowen: I was going to ask if it was due to the difference in the tonnage, and that finally explains it.

Mr. Rice: Yes.

Mr. Cowen: And during the five months you have just given it would naturally include cotton and cottonseed movement, which would have a good rate?

4261 Mr. Rice: Well, hardly to November, not much cotton moves.

Mr. Cowen: What were the months you gave?

Mr. Rice: July to November inclusive. Not very much cotton moves in November.

Mr. Cowen: No, but there is certainly a vast amount of it which moves between July and November.

Mr. Rice: No, between July and November?

Mr. Cowen: September, October and November is the big cotton movement, is it not?

Mr. Rice: Not in my experience in railroading. We have very little——

Mr. Cowen: Well, that is the season down there.

Mr. Rice: Very little cotton moves before November. The season does not open until about the middle of October.

Mr. Cowen: That is true of the farming country in Louisiana. Now in the item of maintenance of way and structures, did it not include the laying of that 60 pound steel?

Mr. Rice: Yes, sir.

Mr. Cowen: And that involved charging all that steel to operating expense and taking up the other for use elsewhere?

Mr. Rice: Yes, sir.

Examiner Burchmore: Is that correct under the Commis-
4262 sion's system of accounting, to charge that re-laying with heavier steel against your maintenance of way?

Mr. Rice: I think so, yes, sir. It is renewals of rails, renewals of track and comes under renewal of track and maintenance of way.

Mr. Cowen: I suppose you renewed a good many ties while you were doing that?

Mr. Rice: Yes, it is a very heavy expense all the time, and there is another feature which caused our maintenance to be very heavy, when we took the road over from the Summit Lumber Company it was in very bad shape physically, and we have been put to a lot of expense in putting it up to good shape.

Mr. Cowen: Practically reconstructed.

Mr. Walter: During that five months you had a large increase in stave tonnage?

Mr. Rice: Very large.

Mr. Walter: And that mostly paid a local rate?

Mr. Rice: Yes, you might say it all paid the local rate.

Mr. Walter: Most of it went to New Orleans?

Mr. Rice: It is divided between New Orleans and Arkansas points, Junction City, Arkansas.

4263 Mr. Walter: That road is well laid?

Mr. Rice: Yes.

Mr. Walter: Very good condition?

Mr. Rice: Very good condition considering it is not ballasted, and will compare favorably with any of the lines which are not ballasted.

Mr. Walter: It does business for anybody that presents it and on equal terms, as by your tariffs provided?

Mr. Rice: Yes, sir.

Mr. Walter: If anybody ships from a point where there is a joint rate you accord him the joint rate?

Mr. Rice: Yes, sir.

Mr. Walter: And if there is not a joint rate you give him the local rate?

Mr. Rice: Yes, sir.

Mr. Coleman: Do you get a division with the Rock Island on the staves?

Mr. Rice: No, we get the local rate.

Mr. Coleman: Why don't you get a division with them on that?

Mr. Rice: We have no through rates with the Rock Island to

points south of Little Rock so far; it is just a matter of time,
4264 getting these things together and agreeing on our rates.

Mr. Coleman: In other words, you do not have a division on staves. Is not that so because the Summit mill is not interested in staves?

Mr. Rice: Well, that is not the reason, if that is the question you put; no, sir. I am very anxious to get—I am handling now with the Rock Island a through rate to New Orleans on staves of 15 cents against the present rate of 17½ cents, and I am very anxious to put in just as many rates as we possibly can, that will be to our advantage, that is where we can make some money, for the benefit of the shipper on the line. There is no preference, if you are intimating that, as to the Summit Lumber Company. We want all the business we can get.

Mr. Coleman: It would not be to your advantage to put in a through rate with the Rock Island which gave your railroad company less than the local, would it?

Mr. Rice: Of course it would, because that would develop some business, we would not get otherwise.

Mr. Coleman: In other words, more staves would move.

Mr. Rice: That is the idea exactly, and more hardwood lumber.

Mr. Coleman: There was a little spur track mentioned which was not included on the blue print. What is that used
4265 for?

Mr. Rice: Well, there is one on this profile that I have here, that is the shingle mill. W. H. Lephiew has a mill located on our line, and he has somewhere between seven and eight miles of logging spurs of his own.

Mr. Coleman: And you do not operate it?

Mr. Rice: We do not operate it in any shape or form.

Mr. Coleman: Does he?

Mr. Rice: Yes, he does all his own logging.

Mr. Coleman: And that was the spur track which was omitted from your profile?

Mr. Rice: No, I think that is on here.

Examiner Burchmore: The spur track Mr. Coleman has in mind, as I understand it, is one that you referred to as being at the mill, connecting it with your line.

Mr. Coleman: That is the one.

Mr. Rice: That is right at Randolph, that is a different proposition.

Mr. Coleman: What about that?

Mr. Rice: It is our main line, as you might say, in our Randolph yard mills. It goes to the planer, but it also connects with the Rock Island tracks. It is strictly the Arkansas Southeastern property.

4266 Mr. Coleman: Do I understand you to say it was not used at all?

Mr. Rice: Yes, it is used entirely by the Summit Lumber Company in shipping; it is a loading track at Randolph.

Mr. Coleman: It is loaded on that track?

Mr. Rice: It is loaded on that track and it goes over our tracks

to the interchange. We have an established interchange at Randolph, and handle the cars to the interchange.

Mr. Coleman: It is a physical connection?

Mr. Rice: Yes. None of our engines, though, go on the Rock Island rails other than at the interchange.

Mr. Coleman: Is this considered an Arkansas Southeastern or a Rock Island interchange?

Mr. Rice: It is joint.

Mr. Coleman: The Rock Island puts its engines in on the track?

Mr. Rice: Yes, sir.

Mr. Coleman: And pulls it out from your mill?

Mr. Rice: No, the interchange track is not near the mill, it is three-quarters of a mile from the mill.

Examiner Burchmore: I think that has all been explained. Mr. Coleman is talking about one thing and you are talking about another.

4267 Mr. Coleman: I want that little spur track explained.

Mr. Rice: It is really a loading track at the planing mill, but it does connect with the Rock Island rails.

Mr. Coleman: Then I asked you if you ever did use it?

Mr. Rice: Yes, sir.

Mr. Coleman: And you said yes, it was constantly being used for interchange.

Mr. Rice: No, used by the lumber company for loading.

Examiner Burchmore: But the connection with the Rock Island is not used?

Mr. Rice: No. Those cars are interchanged through our interchange track. We have a joint interchange track. The Rock Island pull out loads we give them and give us empties, and we pull down the loads they give us and give them loads or empties.

Mr. Coleman: And that is three-quarters of a mile from the mill?

Mr. Rice: I judge half to three-quarters of a mile.

Mr. Coleman: And the other was how far?

Mr. Rice: The loading track is about 100 yards from the Rock Island tracks.

Mr. Coleman: Why do you haul it half a mile when you can connect in 100 yards?

4268 Mr. Rice: The service we have to perform to reach those tracks, we have to pull it through our yard possibly a quarter of a mile.

Examiner Burchmore: I think we have gone far enough with that. Is there anything further.

Mr. Walter: That is all from this witness.

(Witness excused.)

H. L. HATCHETTE, was called as a witness, and having been duly sworn, testified as follows:

Mr. Walter: State your full name?

Mr. Hatchette: H. L. Hatchette.

Mr. Walter: What is your business?

Mr. Hatchette: Hardwood saw milling.

Mr. Walter: What concern?

Mr. Hatchette: W. S. Usrey & Company.

Mr. Walter: Where is that located?

Mr. Hatchette: 12 miles east of Randolph, La., on the Arkansas Southeastern Railway.

Mr. Walter: When was that mill built?

Mr. Hatchette: I commenced it on the 7th day of last October, and just finished up about the 1st of December.

4269 Mr. Walter: What is its capacity?

Mr. Hatchette: About 20,000 daily of hardwood, that is about our average cut since we have started up.

Mr. Walter: You ship that to what point?

Mr. Hatchette: I ship principally to Memphis and Cairo.

Mr. Walter: What is the rate to Memphis?

Mr. Hatchette: I have a 12 cent rate to Memphis and 14 cents to Cairo.

Mr. Walter: What does that hardwood cost you delivered at your mill?

Mr. Hatchette: I pay the Summit Lumber Company $10.25 per thousand feet log scale for my logs.

Mr. Walter: What does that cost you to mill and put on board the car?

Mr. Hatchette: I figure $3.25 to $3.50 per thousand feet, as nearly as I can get it, about $3.25 pays the cost of unloading from the log car, cutting the logs and loading it on the cars after manufacture.

Mr. Walter: How much do you get for your lumber at Memphis or Cairo?

Mr. Hatchette: You are speaking of the general average, log scale, now?

4270 Mr. Walter: Yes.

Mr. Hatchette: I judge—well, I know, about $16.50 to $17.00 per thousand feet on the basis of the log scale.

Mr. Walter: What would it be on the lumber bought, delivered at Memphis?

Mr. Hatchette: Well, it is about the same, that is what I am getting at, that is about what I am figuring on, you know. I have a margin of about $3.00 to $3.50 a thousand profit on the lumber I cut out of it. I will explain that now, if you please.

Mr. Walter: Go ahead.

Mr. Hatchette: If I got the first class logs I could make more than that, but I am only getting the lower class, the lighter class of logs.

Mr. Walter: Speak a little louder.

Mr. Hatchette: I am getting the low class, the wormy and knotty logs, and I am manufacturing those logs very closely, I am doing my own filing, that is where I split up my thumb last Friday (indicating). I am a practical man and do my own work and I get all there is in the log. I am helping to try to develop that country, as a good citizen should, and $3.00 will cover my net profit, but I am satisfied with it and am making a little money.

4271 Mr. Walter: What would be the effect on your mill if the joint rates are abolished and you have to pay five cents local to the Rock Island point?

Mr. Hatchette: You would wipe me out of business.

Mr. Walter: What will that figure you?

Mr. Hatchette: We figure six pounds to the foot, $3.00 a thousand, just about swallows up what I make out of it. I cannot ship to New Orleans today, because that is in the same state, and I cannot get a joint rate. R. E. Riggs, who is an exporter in New Orleans, has been trying to buy stuff from me, and I cannot sell him; and I cannot cut for the Rock Island because I have to go over 12 miles west to Randolph, and I cannot pay my local rate, and I have put every dollar I have and every dollar I can borrow right in that mill.

Mr. Walter: The effect of abolishing the joint rate and the collection of the local means putting you out of business?

Mr. Hatchette: It is going to ruin me.

Mr. Walter: And the joint rate means the difference between the profitable investment and the price of the logs?

Mr. Hatchette: Yes, I am making a little money there and can as long as I am shipping.

Mr. Cowen: When did you make this contract to buy this lumber and put up the mill?

4272 Mr. Hatchette: I moved my family over there on the 7th day of last October, and I made the contract about a week before that. I did not know that there was an opportunity until a friend of mine came over to where I had a job working by the day 18 miles below Natchez. I was a bookkeeper there, but I had been a hardwood miller. M. E. Lenning of Cape Girardeau, if he is here, can testify to that——

Mr. Cowen: Of course, I supposed when you erected a saw mill at this place, you found out what your rates would be out?

Mr. Hatchette: I tried to find out and I am still finding out some things, but I found I had a joint rate, I was told I had.

Mr. Cowen: To New Orleans?

Mr. Hatchette: No, but to interstate points, points outside the State of Louisiana. I thought when I went in I could get to New Orleans, but I found later I could not do it, but I can get into Cairo and Memphis.

Mr. Cowen: Did you buy a given quantity of timber, or contract for as much as you could use?

Mr. Hatchette: For a five years' supply, all that I could cut, but I have to cut 20,000 feet a day, and I am doing it.

4273 Mr. Cowen: Does the amount you pay for the timber depend upon the rate you get on the lumber?

Mr. Hatchette: No, they do not care nothing about me over there, the Summit Lumber Company don't know me, it is just the money I pay them is all they look for.

Mr. Cowen: In buying in there for the development of the country then, you do not care much more for them than they do for you?

Mr. Hatchette: Not a bit, you have it just right, Judge.

Mr. Cowen: Suppose the rate on the Rock Island were reduced four cents per 100 pounds there, and your rate were left the same, you would still be all right?

Mr. Hatchette: Well, I will tell you, friend, I suppose it is an old game which I have heard a long time about, I don't know about that. It would be all right to me if that holds good before the courts, it would be all the same to me. I don't care where it comes from.

Mr. Cowen: Suppose other people's hardwood rate to Memphis and New Orleans were on an equality with yours?

Mr. Hatchette: That would be all right, but look here—I want to suggest to you that as I am situated now, unless I do get relief that way, that I am a broken merchant, I cannot do business and
4274 cannot run my mill, if I am compelled to pay a local rate of five cents from my mill into Randolph, I am simply broken up.

Examiner Burchmore: Couldn't you team your stuff across?

Mr. Hatchette: Not 12 miles, no. That day has passed. We could ten years ago, but we cannot now.

Mr. Cowen: There must be a good many people in Arkansas, for example, in this case we have heard the evidence of the Crittenden Lumber Company and railroad, which manufacture hardwood a great deal closer to Memphis than you do, and who get very much less rates than you do to Memphis. I would like to know how, with the knotty logs you say you have to handle, you can sell in Memphis when they have lower rates.

Mr. Hatchette: There is a whole lot in the man and in the business and in the way he cuts his timber. I do not hire any high priced work, but I do my own high priced work and stay in my overalls, and glory in it. I am not making a big profit, but am making a living and paying my expenses and don't owe any man a dollor.

Mr. Cowen: You are not interested in this Arkansas railroad?

Mr. Hatchette: Oh, no, not a bit.

Mr. Cowen: Or in the Summit Lumber Company?

Mr. Hatchette: No, not a bit. I just want their timber.

Mr. Cowen: What you want is to have an equality of rates
4275 with other men making hardwood lumber?

Mr. Hatchette: That is on the Rock Island, I cannot cut one foot for the Rock Island, simply because I cannot deliver it at Randolph without paying that extra five cent rate. Mr. Thompson, the agent at Little Rock, has been there to deliver *to* stuff to him, and here in St. Louis, Mr. F. C. Taylor, of the American Car & Foundry Company, I returned him a bill the day before yesterday. I could not cut it because I had to deliver it f. o. b. the cars at Randolph, and had to pay the extra five cents, because I could not get the connection. But when you swipe me off the map from Memphis and Cairo where I have the joint rate, you will cut me out of business.

Mr. Cowen: Does not the Rock Island have joint rates with its connections *with its connections* to St. Louis?

Mr. Hatchette: I don't know about that, but they collect eight cents from my mill to St. Louis, and 15 cents from Randolph.

Mr. Cowen: So the road is not now according through joint rates on hardwood?

Mr. Hatchette: They are giving 12 cents to Memphis and 14 cents to Cairo, which looks pretty good to me.

Examiner Burchmore: Do you know what the rates are from Randolph to Memphis and Cairo?

4276 Mr. Hatchette: I think it is the same, at least I have the word of a gentleman over there that it is.

Mr. Cowen: So Memphis is the only point you can ship to without paying something above the other rate?

Mr. Hatchette: Memphis and Cairo, but that is the only place I want to ship to.

Mr. Cowen: You don't know why the Rock Island would have a joint rate with the Arkansas Southeastern to Cairo and not also have one to St. Louis?

Mr. Hatchette: No, sir. I could not tell you anything about that, I don't know.

Mr. Cowen: If you had the 18 cent rate from your place without paying any local, and the same rate from Randolph to St. Louis, would you be satisfied?

Mr. Hatchette: No. I cannot ship any lumber on the 18 cent rate.

Examiner Burchmore: The Randolph rate is 15 cents.

Mr. Cowen: I thought he said it was 18 cents.

Mr. Hatchette: No.

Mr. Cowen: Then you cannot get on your lumber any through rate to any other place except Memphis and Cairo.

4277 Mr. Hatchette: That is all I have tried to get yet. I have made no application for through rates beyond because I have a lumber trade established in Memphis and Cairo that takes all my output.

Mr. Cowen: Well, get yourself a traffic manager——

Examiner Burchmore: Do you have private spur tracks?

Mr. Hatchette: No. I have a little bit of side track, about 160 feet long, when they took the logs in, and I load them on the skidway.

Examiner Burchmore: Did you build that side track?

Mr. Hatchette: No, it was there when I bought in there in October.

(Witness excused.)

A. E. SILVERTHORNE, was called as a witness, and having been duly sworn, testified as follows:

Examiner Burchmore: You are an officer and director in the Arkansas Southeastern Railroad?

Mr. Silverthorne: Yes.

Examiner Burchmore: You were formerly the President of this railroad?

Mr. Silverthorne: No. I was always General Manager and Secretary.

4278 Examiner Burchmore: Mr. Rice testified that Mr. J. S. Blackwell, of Muscatine, Iowa, was elected President of this railroad in January, 1911.

Mr. Silverthorne: The 2nd of January, I think.

Examiner Burchmore: How long has Mr. Blackwell been a stockholder in this railroad?

Mr. Silverthorne: I don't know. I think for several months, I guess seven or eight months.

Examiner Burchmore: From whom did he acquire his stock?

Mr. Silverthorne: He has not had any stock transferred on the books yet. I don't know who he got it from. I rather imagine he got it from W. E. Silverthorne in New York.

Examiner Burchmore: Are you not pretty sure he did?

Mr. Silverthorne: No. I am not positive, because Mr. W. E. Silverthorne has some stock yet, which he has not sold.

Examiner Burchmore: Is there anybody else from whom he could have acquired it?

Mr. Silverthorne: Yes, there are two or three other sources.

Examiner Burchmore: But is it not your impression that he got it from W. E. Silverthorne?

Mr. Silverthorne: I think he got most of it from him.

4279 Examiner Burchmore: Is Mr. Blackwell an officer or employé of the Rock Island Railroad?

Mr. Silverthorne: No.

Examiner Burchmore: Connected with it?

Mr. Silverthorne: No; he is a relative of W. C. Brown, of the New York Central, but not connected with the Rock Island in any way.

Examiner Burchmore: What is his business?

Mr. Silverthorne: I think he is in the real estate business.

Examiner Burchmore: Banker?

Mr. Silverthorne: Well, he is a director in one of those national banks in Muscatine; I don't remember the name of the bank now. He is a real estate man in banks.

Examiner Burchmore: Is he a director of any other railroad company?

Mr. Silverthorne: That I do not know.

Examiner Burchmore: So far as you know he is not?

Mr. Silverthorne: No, I do not know whether he is or is not. I don't know one way or the other.

Examiner Burchmore: Do you know how much stock he owns in this Summit Lumber Company?

4280 Mr. Silverthorne: He is not a stockholder, he has not any.

Examiner Burchmore: You know that for a fact?

Mr. Silverthorne: Yes.

Examiner Burchmore: Has he any other connection with the Summit Lumber Company?

Mr. Silverthorne: No, not at all.

Examiner Burchmore: Does he own any land down there in Louisiana?

Mr. Silverthorne: Well, he does not where we are.

Examiner Burchmore: From whom did the Summit Lumber Company acquire their timber holdings down there?

Mr. Silverthorne: From the residents, and there must have been hundreds of them.

Examiner Burchmore: Did Mr. Blackwell have a part in selling any of the land?

Mr. Silverthorne: No, not that I know of.

Examiner Burchmore: You are acquainted with the lines of this railroad down there, the physical layout of the place?

Mr. Silverthorne: Yes.

Examiner Burchmore: There is a pine mill up there along the line that has a private logging road of its own. I understand.

4281 Mr. Silverthorne: Well, it is hardwood and cypress shingles.

Examiner Burchmore: It is a shingle factory. That has the private tram line?

Mr. Silverthorne: Yes, sir, shingles and hardwood.

Examiner Burchmore: The Arkansas Southeastern Railroad Company corporation bought the railroad that had previously been owned by the Summit Lumber Company, running from Randolph towards Farmerville, and did not buy the private logging lines of the Summit Lumber Company.

Mr. Silverthorne: That is right.

Examiner Burchmore: Why did not they buy those logging roads?

Mr. Silverthorne: Well, they were chartered to build through to Monroe and would not have any use for them.

Examiner Burchmore: Would not have any use for them? You know railroads customarily have not only main lines but branch lines and feeders.

Mr. Silverthorne: The railroad was not in the logging business and would not have any use for logging spurs.

Mr. Walter: Those spurs are moved too, right along, are they not?

Mr. Silverthorne: Yes, they change from time to time.

4282 Examiner Burchmore: Suppose you did incorporate those logging lines up there in the woods——

Mr. Silverthorne: We could not take them up if we did that.

Examiner Burchmore: Sure about that?

Mr. Silverthorne: No, I am not a lawyer.

Examiner Burchmore: Don't you know in this case here we have had two or three companies that have told us they had taken up their incorporated logging roads and moved them around?

Mr. Walter: They have not shown when the charter expired.

Mr. Silverthorne: I do not know, they might do it, but I would not like to try it.

Examiner Burchmore: Was that the controlling reason?

Mr. Silverthorne: We never considered it at all. We were building through to Monroe and did not want a logging spur.

Examiner Burchmore: Suppose you did incorporate this into

your regular main line system, would that be any benefit to the railroad company?

Mr. Silverthorne: No, it would be a detriment, I should think.

Examiner Burchmore: What would be a detriment?

Mr. Silverthorne: They would not want to keep them up
4283 and go into the logging business.

Examiner Burchmore: Couldn't they keep them up and go into the railroad business on them?

Mr. Silverthorne: It would depend on where it would lead them. It probably would not lead them anywhere, after the logs were logged off they would have to take them up and move them somewhere else.

Examiner Burchmore: Is it not a fact that the result of this policy to incorporate these logging roads is that you have a monopoly up there in those woods and there cannot anybody else ship from those woods as the result of this failure to incorporate into the policy.

Mr. Silverthorne: That is not the reason so far as I know it. The reason so far as I know it is that we would not want to incorporate a temporary piece of track. We are glad to haul anything anybody will bring to us.

Examiner Burchmore: There is another pine mill on your road?

Mr. Silverthorne: Yes.

Examiner Burchmore: Where do they get their logs?

Mr. Silverthorne: They have their own timber.

Examiner Burchmore: How do they get their logs down
4284 to the mill?

Mr. Silverthorne: This pine mill has its own roads from a place called Lephiew.

Examiner Burchmore: I thought they did not have.

Mr. Silverthorne: That is the hardwood and cypress shingle mill.

Examiner Burchmore: There is a little pine mill up there too?

Mr. Silverthorne: Yes, I forgot that, up at Caloway.

Examiner Burchmore: Where do they get their logs?

Mr. Silverthorne: I think they are hauled in on a wooden tram or by team, which connects with their mill.

Examiner Burchmore: It costs them something to bring those logs in?

Mr. Silverthorne: Yes, it will cost them just about as much as though they had a railroad.

Examiner Burchmore: They do not get any allowance?

Mr. Silverthorne: Not a cent, but they get the benefit of the through rate.

Examiner Burchmore: Are not they seriously handicapped in a close market by the fact it costs them so much to bring their logs into the mill?

Mr. Silverthorne: No, I do not think they are, because
4285 they have a very short haul; they are right near the timber, and they have not any railroad to keep up.

Mr. Cowen: As I understand the stock in this railroad company

has never paid any dividends, and the operation shows a deficit every year?

Mr. Silverthorne: Yes, sir.

Mr. Cowen: And it appears from the statement of the manager of the road that Mr. Silverthorne takes care of the deficit, and I do not know whether you are the gentleman or the other man, W. E.?

Mr. Silverthorne: It is not W. E.; there are three or four of us.

Mr. Cowen: Do you all together take care of the deficit?

Mr. Silverthorne: What do you mean by the debts, the deficit?

Mr. Cowen: I may have pronounced it wrong, but that is what I mean.

Mr. Silverthorne: We have not been able to break even on the road yet because it has been under construction and it has also had new industries going in, and we hope to get it so it will break even.

Mr. Cowen: My question was who takes care of them?

Mr. Silverthorne: Well, we have taken care of them.

4286 Mr. Cowen: Do you charge that up on the books of the lumber company?

Mr. Silverthorne: The lumber company has nothing to do with the railroad.

Mr. Cowen: Then Silverthorne pays this expense out of his own pocket?

Mr. Silverthorne: Yes.

Mr. Cowen: And it has been very large?

Mr. Silverthorne: Yes, sir, it has been large.

Mr. Cowen: During the time that is going on Mr. Blackwell, apparently unconnected with the lumber company or the railroad or the Rock Island, steps in and buys a lot of this stock?

Mr. Silverthorne: Yes.

Mr. Cowen: And he is a banker and real estate man?

Mr. Silverthorne: Yes.

Mr. Cowen: Do you know how he came to do it?

Mr. Silverthorne: No, I do not know.

Mr. Cowen: Have you heard how he came to do it?

Mr. Silverthorne: No, sir.

Mr. Cowen: Does he hold it as collateral security, or as owner?

Mr. Silverthorne: I don't know. I think he holds it as

4287 his own, I would not be sure.

Mr. Cowen: He was elected President of the road?

Mr. Silverthorne: Yes.

Mr. Cowen: Was that at a meeting which you attended?

Mr. Silverthorne: Yes.

Mr. Cowen: Was he there?

Mr. Silverthorne: No.

Mr. Cowen: Who voted his stock at that meeting?

Mr. Silverthorne: His stock was not voted, there was enough without it.

Mr. Cowen: How did you come to elect him president of the road?

Mr. Silverthorne: He requested it.

Mr. Cowen: Well, I would suppose you would know all about it.

Mr. Silverthorne: I said he requested it.

Mr. Cowen: I say I would suppose you would know all about how he came to get this stock.

Mr. Silverthorne: I did not ask him how he came to buy the stock.

Mr. Cowen: It would seem curious that a man would buy stock and seek to be president of a road when the road had lost money all the time and had very poor prospects.

4288 Mr. Silverthorne: Maybe he thought otherwise, and maybe he thought it had good prospects.

Mr. Cowen: I wondered if you knew that was the reason he bought it?

Mr. Silverthorne: I don't know, but I say that might have been his reason.

Mr. Cowen: The past operations would not tend to show much profit?

Mr. Silverthorne: No, they would not.

Mr. Cowen: In what way is the deficit paid, in cash or charged on somebody's books somewhere?

Mr. Silverthorne: It is paid in cash.

Mr. Cowen: To whom is it paid?

Mr. Silverthorne: To the treasurer of the road.

Mr. Cowen: What has been the total amount of that deficit which has been paid?

Mr. Silverthorne: I would have to look at the books for that. I have not the figures, but it has been large.

Mr. Cowen: It seems that this railroad, from what the manager says, was sold by the lumber company to the railroad company, is that correct?

Mr. Silverthorne: Yes.

4289 Mr. Cowen: And that the way it was paid for——

Mr. Silverthorne: Was in money.

Mr. Cowen: I was about to ask you, and I am glad you answered, because your manager said it was paid for by crediting the lumber company with the $254,000 on the books. That was the only reason I wondered how it was. It was paid for in money?

Mr. Silverthorne: Yes.

Mr. Cowen: By the railroad company to the lumber company?

Mr. Silverthorne: The Silverthornes paid for the road through the lumber company and took the stock and bonds of the railroad in payment.

Mr. Cowen: They paid for the railroad, though, when they built it, did they not?

Mr. Silverthorne: Yes.

Mr. Cowen: Did the lumber company build the railroad, and did the transaction show on the lumber company's books or did the Silverthornes build the railroad?

Mr. Silverthorne: The lumber company built the railroad and the transaction showed on their books.

Mr. Cowen: It was in that condition when the railroad was incorporated, was it?

Mr. Silverthorne: Yes, sir.

4290 Mr. Cowen: And thereupon the railroad corporation paid money you say, for the railroad to the lumber company?

Mr. Silverthorne: Yes.

Mr. Cowen: Is that right?

Mr. Silverthorne: The Silverthornes paid the money to the lumber company and the lumber company took the railroad stocks and bonds in payment for that debt, and then turned the stocks and bonds over to the Silverthornes.

Mr. Cowen: Then the manager was mistaken as to the method in which it was done?

Mr. Silverthorne: Yes, he was mistaken on that.

Mr. Cowen: How much did the road originally and actually cost for construction?

Mr. Silverthorne: Up to date it stands between $300,000 and $400,000.

Mr. Cowen: That simply means the grading, rails, ties, structures and equipment as acquired or constructed from time to time?

Mr. Silverthorne: Well, that is what it stands up to the present time.

Mr. Cowen: That is the book value?

Mr. Silverthorne: That is what it has cost.

Mr. Cowen: Well, do you know whether that appears to be
4291 the book value of it?

Mr. Silverthorne: I presume it does.

Examiner Burchmore: Haven't we rather a full record on this?

Mr. Cowen: Yes, I think so. Does the lumber company own any of the stock in the railroad company?

Mr. Silverthorne: Not a bit.

Mr. Cowen: Why was the railroad sold by the lumber company to the railroad company?

Mr. Silverthorne: The railroad company—the lumber company sold out the road because they wanted to extend it through to Monroe, and in the end be able to sell the road entirely to one of the trunk lines. By building it through to Monroe we can sell it to the Iron Mountain or the Vicksburg, Shreveport & Pacific or the Rock Island; we have three shots to sell it.

Mr. Cowen: Have you any contract?

Mr. Silverthorne: No, but we would like to do like they have done out in Texas, if we could. I understand some of the railroads out there have got a pretty good price.

Mr. Cowen: Well, you might sell Mr. Carlisle.

Mr. Silverthorne: Well, I might ask you.

4292 Mr. Cowen: No, I don't buy because I haven't got money enough.

Mr. Silverthorne: You don't know of any road in Texas having been sold?

Mr. Cowen: Mr. Carlisle testified to having bought one which has been having a deficit.

Mr. Silverthorne: You do not think the Santa Fe would want to buy any more roads?

Mr. Cowen: Not in that locality.

Mr. Silverthorne: Any other in Louisiana?

Mr. Cowen: Not in your locality.

Mr. Silverthorne: I understand they pay pretty good prices.

Mr. Cowen: I don't know what the Santa Fe pays. Do you have any arrangement with either one of these railroads for a sale when you are completed?

Mr. Silverthorne: Well, there was an understanding with one of them that they were to take it over when we had it extended a certain distance beyond Farmerville.

Mr. Cowen: Without going clear through to Monroe?

Mr. Silverthorne: Yes, sir, but that was made after we had made our charter and had taken over the road.

Mr. Cowen: How much timber land has the lumber company approximately?

4293 Mr. Silverthorne: You mean how much timber or how much land?

Mr. Cowen: State it either way you wish.

Mr. Silverthorne: I will state it the easiest way. We have about 181,000,000 feet of timber.

Mr. Cowen: How long do you calculate that cutting will last?

Mr. Silverthorne: About eight years.

Examiner Burchmore: Does this railroad own its own right of way?

Mr. Silverthorne: Yes, sir.

Examiner Burchmore: It has not leased it from the lumber company?

Mr. Silverthorne: No, the lumber company owned very little of the property along where the road went.

Mr. Garwood: I note from the trend of counsel's question that when a short line loses money he considers that an evidence that it is a poor proposition and ought never to have started, and if it makes money, he considers that as an evidence that its stockholders were also stockholders of some lumber company, or getting an unfair advantage. Proceeding on his theory is not the only way a

4294 short line railroad can be a railroad is to absolutely break even.

Mr. Silverthorne: Well, it is pretty hard to make them break even now.

Examiner Burchmore: Is that your answer?

Mr. Silverthorne: I did not really get the trend of his question.

Mr. Cowen: Well, it is an argument, Mr. Silverthorne, and entirely unjustified.

Mr. Garwood: It was a reply to the argument counsel has been making all through his cross-examination.

Examiner Burchmore: Mr. Blackwell is related to W. C. Brown?

Mr. Silverthorne: He is a nephew or second cousin or something like that. He is some connection.

Examiner Burchmore: Do you know anything more about Mr. Blackwell than has been stated?

Mr. Silverthorne: No; as a matter of fact, I do not know how much stock he has got. He hasn't it transferred on the books, and

we cannot tell, except he had bought in some stock and wanted to know what our plans were, and if he could not be elected president, and thought it would be a good connection.

Mr. Cowen: I would like to know how he could be elected
4295 as president and not appear on the books as a stockholder.

Mr. Silverthorne: Well, he has not had his stock transferred on the books, or at least he had not when I saw the books last.

Examiner Burchmore: Where are the books?

Mr. Silverthorne: They are at Randolph, La.

Examiner Burchmore: Does Mr. Rice have them?

Mr. Silverthorne: He hasn't them here, and I do not think he did have those.

Examiner Burchmore: I think it is pertinent to request counsel to advise the Commission——

Mr. Silverthorne: How much he has?

Examiner Burchmore: How much stock Mr. Blackwell has and from whom he acquired it, and when he acquired it.

Mr. Silverthorne: We can find that out.

Mr. Walter: We will furnish it to you.

Examiner Burchmore: Is Mr. Blackwell at St. Louis?

Mr. Silverthorne: I don't think he is. I think he is at Muscadine, Iowa.

Mr. Cowen: I think the manager said he owned a majority of the stock.

Examiner Burchmore: He did.

Mr. Silverthorne: Who?

4296 Examiner Burchmore: Mr. Rice said he had a majority.

Mr. Silverthorne: As I understand it, 60 or 70 per cent.

Mr. Cowen: It looks as if he would have to vote.

Mr. Silverthorne: The other people would vote the way he said, I guess.

Examiner Burchmore: Would it not be proper to have Mr. Blackwell execute and file an affidavit in this case, indicating how much stock he has and from whom he acquired it, and showing his relation with the lumber company.

Mr. Walter: We will show it.

Mr. Silverthorne: He has not anything to do with the lumber company at all?

Examiner Burchmore: Well, we would like to have him say so.

Mr. Silverthorne: We have not any objection to showing it.

Mr. Coleman: How much do the Silverthornes own?

Mr. Silverthorne: 30 to 40 per cent.

Mr. Coleman: And it is probable that Mr. Blackwell owns the rest?

Mr. Silverthorne: I think he does. When I say the Silverthornes, I mean two; there is a third of them that holds some, but how much he holds and how much Mr. Blackwell holds I don't know.

4297 Mr. Coleman: Do you mean you elected a president of the road at a stockholders' meeting at which only 40 per cent of the stock was represented?

Mr. Silverthorne: It was at a directors' meeting. We do not have to have the stock; a majority of the directors have to be present and not the stockholders.

Mr. Coleman: It was simply at his request that you elected him?

Mr. Silverthorne: Yes. Well, we knew that he had acquired a lot of stock and we were very glad to do it at his suggestion. At a directors' meeting you do not have to have stockholders.

Mr. Coleman: You know Mr. Blackwell pretty well, don't you?

Mr. Silverthorne: Yes.

Mr. Coleman: And you wanted to put a 40 per cent stock man in charge of the whole thing over your own holdings?

Mr. Silverthorne: 40 per cent? About 60.

Mr. Coleman: He has 60 per cent?

Mr. Silverthorne: He has got about 60 per cent.

Mr. Walter: We will furnish that information.

Mr. Cowen: You said a while ago there was an understanding that some railroad company was to take it over, and I do not
4298 care to inquire the name of it.

Mr. Silverthorne: Go ahead and ask it, if you want to.

Mr. Cowen: Very well, I will ask it.

Mr. Silverthorne: Well, I won't answer it, though.

Mr. Cowen: I did not want to ask it until you suggested it, but what I wanted to ask was this, if that railroad company, whatever one it was, directly or indirectly furnished, advanced, loaned or in anywise put up any money or material——

Mr. Silverthorne: No, I wish they had.

Mr. Cowen: In the construction of this railroad or for any part of extension of it

Mr. Silverthorne: No, but I wish they had.

Mr. Cowen: Was there an understanding that they would do so?

Mr. Silverthorne: There was not.

(Witness excused.)

Examiner Burchmore: The next road is the Fordyce & Princeton Railroad.

Mr. Cowen: Before we proceed with this investigation, I would like to make a request that there be filed by the lumber company or the Arkansas Southeastern Railroad Company, whoever the
4299 Commission might desire to get it from, a statement showing the stockholders of the lumber company and of the railroad company, say for June, 1910, and January 1st, 1911.

Mr. Walter: The entry has not been made up. Suppose you make it to date, for the owners of the company.

Examiner Burchmore: You might make it January 20th. Mr. Blackwell came in subsequent to January 1st.

Mr. Cowen: That is all right. My point is to get the owners of the stock in the two companies as of a date previous to the transfer and of a date since.

Mr. Coleman: And the directors also.

Mr. Walter: We will be very glad to furnish anything that will throw light on that.

Mr. Coleman: Of the Summit Lumber Company and of the railroad company, and also the directors who elected Mr. Blackwell at his request.

Mr. Walter: We will give you a copy of the minute book.

Examiner Burchmore: If the stockholders' list as taken from the books is not accurate, I mean if you know there has been some transfer since, there is no objection to your showing that in a footnote.

Mr. Walter: Yes, we will show it.

4300 *Fordyce & Princeton Railroad.*

W. T. MURRAY, was called as a witness, and having been duly sworn, testified as follows:

Examiner Burchmore: You are Secretary and General Manager of the Fordyce & Princeton Railroad?

Mr. Murray: Yes, sir.

Examiner Burchmore: That railroad seems to connect with the St. Louis Southwestern at Fordyce, Arkansas?

Mr. Murray: eYs, sir.

Examiner Burchmore: And to run from thence——

Mr. Murray: Also with the Rock Island.

Examiner Burchmore: At the same point?

Mr. Murray: Yes, sir, Fordyce.

Examiner Burchmore: And it runs thence in what direction?

Mr. Murray: In a northwesterly direction, with a branch more northerly.

Examiner Burchmore: This branch line crosses the Rock Island?

Mr. Murray: Yes, sir. Well, both lines cross the Rock Island. The branch line at a point some seven miles north of Fordyce and the old line about 18 or 19 miles north.

4301 Examiner Burchmore: And the main line of this Fordyce & Princeton Railroad, for practically its entire length, parallels the line of the Chicago, Rock Island & Pacific?

Mr. Murray: That is true of the original line but not of the branch.

Examiner Burchmore: Not of the branch which ran up towards Trigg and Old Junction?

Mr. Murray: Well, the Old Junction Line does parallel the Rock Island very nearly.

Examiner Burchmore: Which was built first, the Fordyce & Princeton, or the Rock Island?

Mr. Murray: The Fordyce & Princeton, very much longer.

Examiner Burchmore: The Rock Island has paralleled your line instead of paralleling theirs?

Mr. Murray: Yes, sir.

Examiner Burchmore: Was the Rock Island built before the Fordyce & Princeton was incorporated?

Mr. Murray: No, sir.

Examiner Burchmore: The mill of the Fordyce Lumber Company is located at or near Fordyce?

Mr. Murray: Yes, sir.

Examiner Burchmore: What is the distance from the mill to the junction of the Fordyce & Princeton with the Rock
4302 Island?

Mr. Murray: It is approximately three-quarters of a mile.

Examiner Burchmore: How far from the junction with the St. Louis Southwestern?

Mr. Murray: About one and one-eighth miles.

Examiner Burchmore: Is there any station at these junction points?

Mr. Murray: No, sir. You mean where we connect with the two trunk lines?

Examiner Burchmore: Yes.

Mr. Murray: No station there except the Trunk Line stations.

Examiner Burchmore: The Trunk Line station is located at the junction between the two trunk lines, is it not?

Mr. Murray: Well, very close to it, yes, sir.

Examiner Burchmore: Do they have two stations?

Mr. Murray: Yes, sir, separate stations about a quarter of a mile apart, I should judge.

Examiner Burchmore: You have shown here a point known as Cynthia?

Mr. Murray: Cynthiana.

Examiner Burchmore: Where the so-called new line joins the old main line?

4303 Mr. Murray: Yes, sir.

Examiner Burchmore: Is there any station there?

Mr. Murray: Yes, sir. It is not a regular passenger station however. We have no passenger service.

Examiner Burchmore: No passenger service on the road?

Mr. Murray: No.

Examiner Burchmore: You are incorporated as a freight carrier only?

Mr. Murray: Yes, sir.

Examiner Burchmore: Is there any town at Cynthiana?

Mr. Murray: No town.

Examiner Burchmore: Anybody live there?

Mr. Murray: Well, there are a couple of farmhouses close by it. It is a billing point and junction point. There are sidings there.

Examiner Burchmore: Just across the Rock Island on the new branch is Dobbs Mill?

Mr. Murray: Yes, sir.

Examiner Burchmore: Is there anything there?

Mr. Murray: There is a little hardwood mill there. The new branch line has only recently been taken over by the Fordyce & Princeton Railroad and we have no through rates in effect from points beyond Cynthiana on the new branch.

4304 Examiner Burchmore: Then the line from Cynthiana through Dobbs Mill and up into the woods to Triggs was formerly a private logging road?

Mr. Murray: Yes, sir, recently built.

Examiner Burchmore: When was it built?
Mr. Murray: Built last year.
Examiner Burchmore: Built by the lumber company?
Mr. Murray: Yes, sir.
Examiner Burchmore: When was it taken over by the Fordyce & Princeton Railroad Company?
Mr. Murray: Taken over this month.
Examiner Burchmore: That line ends apparently at Trigg?
Mr. Murray: Yes, sir.
Examiner Burchmore: What is Trigg?
Mr. Murray: Trigg is a little country village in Cleveland County.
Examiner Burchmore: Any timber around Trigg?
Mr. Murray: There is timber all around Trigg, more or less.
Examiner Burchmore: Going up on the main line what is the distance to—I find a point marked Bryant's Spur.
Mr. Murray: Yes, sir.
Examiner Burchmore: Any town there?
4305 Mr. Murray: No town.
Examiner Burchmore: What is that?
Mr. Murray: Bryant's Spur is a billing station on the Fordyce & Princeton Railroad where we have sidings, and a couple of families there and a bridge tender lives there.
Examiner Burchmore: What do you cross at Bryant's Spur?
Mr. Murray: We cross a very wide bottom known as Bryant's Creek bottom, a long trestle.
Examiner Burchmore: Then I see Old Junction, which is apparently the end of the line of this railroad?
Mr. Murray: Yes, sir.
Examiner Burchmore: Anything there?
Mr. Murray: Nothing there except it was a junction with the Fordyce Lumber Company's logging roads.
Examiner Burchmore: You have a bridge across the More River just north of Dobbs Mill?
Mr. Murray: Yes, sir.
Examiner Burchmore: What is the character of that bridge?
Mr. Murray: A trestle, not a steel bridge.
Examiner Burchmore: That is a single track railroad?
Mr. Murray: Yes.
Examiner Burchmore: Standard gauge?
Mr. Murray: Yes.
4306 Examiner Burchmore: What is the character of the roadbed and rail?
Mr. Murray: The roadbed is very good: the rail is 45 and 40 pound on the main line excepting there is a little 30 pound on the old road.
Examiner Burchmore: What is the mileage from Fordyce over the old line to Old Junction?
Mr. Murray: 22½ miles.
Examiner Burchmore: What is the branch line from Cynthiana to Trigg?
Mr. Murray: Six miles.

Examiner Burchmore: Are the two items the total of your mileage?

Mr. Murray: Yes.

Examiner Burchmore: You have no branch lines?

Mr. Murray: No.

Examiner Burchmore: What is the total mileage of the logging roads of the Fordyce Lumber Company?

Mr. Murray: They have approximately seven or eight miles of spur track into the timber.

(Map produced by witness at this point was received in evidence and thereupon marked Fordyce & Princeton Railroad
4307 Exhibit No. 1, Witness Murray, received in evidence January 23, 1911, and is attached hereto.)

Examiner Burchmore: The mill at Fordyce is owned by the Fordyce Lumber Company?

Mr. Murray: Yes.

Examiner Burchmore: The Fordyce Lumber Company owns or controls at least this railroad company?

Mr. Murray: Not as a company it does not, no, sir.

Examiner Burchmore: Are the stockholders of the two companies identical?

Mr. Murray: They are.

Examiner Burchmore: Do they have the same officers?

Mr. Murray: Well, I say they are; they are practically the same.

Examiner Burchmore: What difference is there in the holdings?

Mr. Murray: The only difference in their holdings is that the stock of the railroad company is held entirely by individuals, while a portion of the stock of the lumber company is held by a company.

Examiner Burchmore: But the two companies are identical in interest?

4308 Mr. Murray: Practically so.

Examiner Burchmore: Is there anybody that is interested in the one company that has no interest whatever in the other, I mean a real interest, not on the face of the stock book, but——

Mr. Murray: No, sir, I think not. I will just make an explanation for your information. There is quite a lot of the stock of the Fordyce Lumber Company held in the Crossett Land & Investment Company's name, while the holdings in the railroad company are held by the Estate of Mr. E. S. Crossett personally.

Examiner Burchmore: But that estate is interested in the other company?

Mr. Murray: Yes, sir.

Examiner Burchmore: Who is president of this railroad?

Mr. Murray: Mr. E. C. Crossett.

Examiner Burchmore: He is also president of the Fordyce Lumber Company?

Mr. Murray: He is now.

Mr. Gaughan: You might state when he became so.

Mr. Murray: He just became president of the lumber company Saturday. His father was president and died recently.

Examiner Burchmore: He died while we were at New Orleans, if I recollect.

4309 Mr. Murray: Yes, sir.

Examiner Burchmore: E. S. Crossett was formerly president of the railroad also?

Mr. Murray: Yes, sir, but at the December meeting of the railroad Mr. E. C. Crossett was elected president before his father was deceased.

Examiner Burchmore: Who is Vice President of the lumber company?

Mr. Murray: E. C. Gates.

Examiner Burchmore: He is also Vice President of the railroad?

Mr. Murray: Yes.

Examiner Burchmore: And Mr. Watzek is treasurer of both companies?

Mr. Murray: Yes.

Examiner Burchmore: You are not an officer of either company?

Mr. Murray: No.

Examiner Burchmore: You are manager of both companies?

Mr. Murray: Yes.

Examiner Burchmore: Do you receive a salary from the railroad company?

Mr. Murray: No; there is a charge for my services to the
4310 railroad company as well as the lumber company, but it is all paid by the lumber company.

Examiner Burchmore: Is there any officer of this railroad company who is paid by the railroad itself?

Mr. Murray: Yes.

Examiner Burchmore: Who?

Mr. Murray: The Auditor, he is a joint employee, however.

Examiner Burchmore: He receives money directly from the railroad?

Mr. Murray: Yes, sir. I say money directly; there is a portion of his salary that is charged to the railroad company for his services. He is an employee of the lumber company.

Examiner Burchmore: And he gets all his money from the Paymaster or the cashier of the lumber company?

Mr. Murray: Yes, sir; well, he is the Paymaster.

Examiner Burchmore: You said you got a salary from the railroad?

Mr. Murray: It is handled in the same way.

Examiner Burchmore: Is there anyone else whose salary is handled in the same way?

Mr. Murray: Yes, sir, there is an agent.

Examiner Burchmore: That agent is located at Fordyce?

4311 Mr. Murray: Yes.

Examiner Burchmore: He actually works in the mill?

Mr. Murray: Not in the mill but in the office.

Examiner Burchmore: In the mill office?

Mr. Murray: Yes, sir, clerical work.

Examiner Burchmore: And he devotes his days to the service of the two companies?

Mr. Murray: Yes.

Examiner Burchmore: He does not work one day for one and another day for the other?

Mr. Murray: No.

Examiner Burchmore: When did the mill begin operations at Fordyce?

Mr. Murray: 1890. There was a little mill before that, but I think the present interests acquired the property in 1890.

Examiner Burchmore: Fordyce was then located only on the Iron Mountain?

Mr. Murray: On the Cotton Belt.

Examiner Burchmore: And no other railroad there?

Mr. Murray: No, sir.

Examiner Burchmore: The Fordyce Lumber Company
4312 then owned this mill and opened it at that time?

Mr. Murray: There was a little mill there and they acquired it without a railroad.

Examiner Burchmore: There was no railroad, though.

Mr. Murray: Well, they did have, the Fordyce & Princeton Railroad was incorporated in 1890, and was in existence at that time, but perhaps just was only in length as long as from the distance out from the Cotton Belt to the mill or one mile further.

Examiner Burchmore: It did not reach out into the woods?

Mr. Murray: No.

Examiner Burchmore: The Fordyce & Princeton was incorporated at the same time the lumber company was?

Mr. Murray: Yes.

Examiner Burchmore: Practically the enterprise opened up as one enterprise?

Mr. Murray: It was essentially the same, yes, sir.

Examiner Burchmore: When did they begin the construction of lines out into the woods?

Mr. Murray: I presume immediately.

Examiner Burchmore: The purpose of those new lines was to bring logs into the mill?

4313 Mr. Murray: I presume it was.

Examiner Burchmore: And the line was extended from time to time he got farther into the country.

Mr. Murray: Yes.

Examiner Burchmore: How many locomotives have you?

Mr. Murray: One.

Examiner Burchmore: How many cars?

Mr. Murray: 71.

Examiner Burchmore: Are those all logging cars?

Mr. Murray: No.

Examiner Burchmore: Any box cars?

Mr. Murray: Four.

Examiner Burchmore: Those box cars are used for what purpose?

Mr. Murray: Handling beams, merchandise, stave bolts, and other shipments offered.

Examiner Burchmore: They do not go off your line?

Mr. Murray: No, sir.

Examiner Burchmore: Are those cars all equipped with safety appliances?

Mr. Murray: Two box cars have automatic couplers and air brakes, and the others have not.

Examiner Burchmore: Do you ever put any interstate
4314 freight into those other cars?

Mr. Murray: No, sir.

Examiner Burchmore: Do you have any time tables?

Mr. Murray: Yes, sir.

Examiner Burchmore: You do not publish one, do you?

Mr. Murray: No.

Examiner Burchmore: How many trains a day do you run?

Mr. Murray: Two.

Examiner Burchmore: One in each direction?

Mr. Murray: Two in each direction.

Examiner Burchmore: That is, you mean from up along the line down to Fordyce?

Mr. Murray: From Fordyce out and then back, twice.

Examiner Burchmore: One train crew?

Mr. Murray: One train crew.

Examiner Burchmore: How many men are there in your track crews?

Mr. Murray: Well, it varies. I think by our last statement we had 23 men in the track crews.

Examiner Burchmore: How many crews?

Mr. Murray: Two.

Examiner Burchmore: Do those men also take care of the private logging tracks of the lumber company in the woods?

4315 Mr. Murray: No.

Examiner Burchmore: The lumber company itself maintains those tracks?

Mr. Murray: Yes.

Examiner Burchmore: Has the lumber company any locomotives?

Mr. Murray: Yes, sir, three Shay geared engines.

Examiner Burchmore: Where do they operate?

Mr. Murray: In the woods, in the timber holdings of the Fordyce Lumber Company.

Examiner Burchmore: I presume two of them are up in the woods up on the new line and one up in the woods by the old junction.

Mr. Murray: At the present time they are only used, two of them; at times they use all three, and when they do it is usually two on one line and one on the other.

Examiner Burchmore: Has the lumber company any logging cars of its own?

Mr. Murray: No.

Examiner Burchmore: It uses yours?

Mr. Murray: Yes.

Examiner Burchmore: What is the total capitalization of this railroad?

4316 Mr. Murray: Authorized $140,000.

Examiner Burchmore: How much is outstanding?

Mr. Murray: $108,600.

Examiner Burchmore: Have you any bonds?

Mr. Murray: No bonds.

Examiner Burchmore: Any other indebtedness?

Mr. Murray: Yes, sir, we have outstanding some $37,000 in notes.

Examiner Burchmore: What do those notes cover, what is the purpose of their issue?

Mr. Murray: Part of the purchase price of this six miles from Cynthiana to Trigg in Cleveland County.

Examiner Burchmore: They were issued recently?

Mr. Murray: Yes, sir.

Examiner Burchmore: Is it proposed to take those notes up from the profits of operation?

Mr. Murray: No, they are just the regular notes; there were three notes given, one payable in a year, one in two years and one in three years with six per cent interest.

Examiner Burchmore: How do you expect to meet those notes when they fall due?

Mr. Murray: Out of the earnings of the road.

Examiner Burchmore: That is what I meant, you expect

4317 to pay them out of the earnings and not by issuing bonds.

Mr. Murray: I misunderstood your question.

Examiner Burchmore: How much stock did you issue when the road was originally incorporated?

Mr. Murray: I do not know, I was not with them. I do not think the stock was issued at the initial beginning, right when they started.

Examiner Burchmore: What is the valuation of this road?

Mr. Murray: Well, it is fully the capital and the indebtedness of the road.

Examiner Burchmore: What do you report to the Commission as the cost of the road and equipment?

Mr. Murray: We have reported $108,600 as the cost of the road, but we have not reported to the Commission since we acquired this other road.

Examiner Burchmore: For how many miles is that $108,600?

Mr. Murray: That is for the 22½ miles.

Examiner Burchmore: That is about $5,000 a mile?

Mr. Murray: Yes, sir.

Examiner Burchmore: That includes equipment?

Mr. Murray: Yes, sir.

Examiner Burchmore: Is that all it cost to build the road?

4318 Mr. Murray: I presume so. There has been since I have been there, which is a term of about five years, considerable. Not a large amount, but a considerable amount of permanent improvements made that have been charged to income account, so that the cost of the road is in excess of $108,000.

Examiner Burchmore: But those figures are shown in your annual report in some form?

Mr. Murray: Yes, sir.

Examiner Burchmore: What dividends has this road been paying?

Mr. Murray: It never has paid but one.

Examiner Burchmore: When was that?

Mr. Murray: We paid five per cent dividend last year.

Examiner Burchmore: How much of a surplus have you?

Mr. Murray: We have no surplus.

Examiner Burchmore: A deficit?

Mr. Murray: We have no deficit to speak of. We ought not to have paid that five per cent dividend. It was brought about—we thought we had the money and did have it in hand, but the Commission—it appearing we did have money on hand the Board of Directors declared a dividend of five per cent on the capital stock, but the Commission afterwards took us to task about some
4319 depreciation entries which had not been properly made and those when made created a reserve that wiped out this money that we had disbursed. Our operating expenses has been very close to our operating revenue.

Examiner Burchmore: And yet you have expended out of your income account certain substantial sums in the improvement of the road, and you have put money back into the road?

Mr. Murray: Yes, sir. I do not know whether you would call it substantial sums or not.

Examiner Burchmore: Well, $15,000 or $20,000?

Mr. Murray: No, $10,000 would cover all, possibly less.

Examiner Burchmore: Do you make annual and monthly reports to the Interstate Commerce Commission?

Mr. Murray: Yes, sir.

Examiner Burchmore: Do you keep your accounts in conformity with the Commission's system of accounts?

Mr. Murray: Yes, sir.

Examiner Burchmore: What rate of depreciation do you charge on equipment?

Mr. Murray: I have forgotten just what that rate is; it is the rate that is prescribed, I think.

Examiner Burchmore: You said you carry no passengers and I assume you do not carry mail or express?

4320 Mr. Murray: No, there has been no demand for that service, as we have not been serving any towns, and the Rock Island parallels our old road very nearly, as you see by the plat. This new territory and this new line we have taken over will serve a community and several villages, and it was taken over on that account. We have performed all the services and hauled all the freight that has been offered us, and have had no demand for passenger service and have not put it on.

Examiner Burchmore: Will you inform us with respect to your freight traffic during the past year?

Mr. Murray: Yes, sir. Do you mean—just what information do you desire?

Examiner Burchmore: What figures have you available?

Mr. Murray: Well, I have a recapitulation drawn from our annual statements. Will you have this?

Mr. Gaughan: Get it in the record in a general way.

Mr. Murray: Do you want it read, or filed as a statement?

Mr. Gaughan: It is short, just read it in.

Examiner Burchmore: Just read that.

Mr. Murray: This is a recapitulation of the tonnage for the year ending June 30th, 1910, and shows lumber tonnage handled 23,815 tons which was 83 per cent of the total tonnage, carrying a revenue of $27,323.13. There was a tonnage of other forest prod-
4321 ucts, staves and bolts, for the same period, of 4,288 tons, 15 per cent, bringing in a revenue of $1977.57. Of hay and grain there were 264 tons handled locally, .92 of one per cent, and a revenue of $180. Merchandise miscellaneous, 263 tons, .93 per cent, revenue $500. Total tonnage 28,632 tons, total revenue of $29,980.70. Would you like me to give the divisions between the lumber company and outside?

Examiner Burchmore: Yes.

Mr. Murray: This tonnage divides as follows:

Originating with the lumber company, 23,815 tons of lumber. Hay and grain 264 tons, which is .92 per cent, a total of 24,079 tons, or 84 per cent.

Outside tonnage, staves, bolts, 4,288 tons, 15 per cent.

Merchandise 250 tons, .87 per cent.

Miscellaneous, 15 tons.

A total outside tonnage of 47533 tons, or 16 per cent.

Examiner Burchmore: That is the biggest year you ever had on outside traffic, is it not?

Mr. Murray: I do not recall. I have not my previous tonnage reports. I do not think is has varied very much.

Examiner Burchmore: You show 4,288 tons of staves and
4322 bolts. Who furnishes the stave lumber out of which those staves were manufactured?

Mr. Murray: The tonnage came to us from the Hampton Stave Company, and outside parties consigned to them. If you are inquiring to see whether there was any of that stumpage which was lumber company stumpage, I can answer that the Hampton Stave Company in addition to holding large timber holdings of their own in our territory do work the stave timber or part of it in which the Fordyce Lumber Company owns part of it, but they handle it themselves and work it up, and it is handled and delivered to them at Fordyce. It is not on our line.

Examiner Burchmore: What stores are there on your line?

Mr. Murray: We have no stores excepting a store at Trigg and there is a store at the lumber company's camp, not run by the company, however.

Examiner Burchmore: Do they farm out the privilege?

Mr. Murray: The Fordyce Mercantile Company, an independent corporation, operates the store out there.

Examiner Burchmore: Who owns the Fordyce Mercantile Company?

Mr. Murray: It is owned very largely by Mr. Chester Edgar. The Fordyce Lumber Company has no financial interest in it at all.

4323 Examiner Burchmore: Has Mr. Edgar any interest in the Fordyce Lumber Company?

Mr. Murray: No.

Examiner Burchmore: What relation is he to C. V. Edgar?

Mr. Murray: He is a brother.

Examiner Burchmore: He is a brother of the Secretary of the lumber company?

Mr. Murray: Yes, sir.

Examiner Burchmore: But has no interest in the lumber company?

Mr. Murray: No.

Examiner Burchmore: How much does he pay the lumber company for having the privilege of the store up there?

Mr. Murray: He does not pay anything for the privilege. There is an arrangement between the Fordyce Mercantile Company and the Fordyce Lumber Company, whereby on such accounts as they ask us to collect they pay a percentage for the collection, but that is not all their account, and he rents buildings from us at Fordyce.

Examiner Burchmore: What rental does he pay?

Mr. Murray: It is a nominal rental of, I think, $75.00 a month perhaps, for a large store and warehouse, and other things.

4324 Examiner Burchmore: Are the rates from stations on your line on the lumber on a milling in transit basis?

Mr. Murray: Yes, sir.

Examiner Burchmore: They cover the logs into the mill and the lumber out?

Mr. Murray: Yes.

Examiner Burchmore: The junction point rates apply back on your line?

Mr. Murray: Yes.

Examiner Burchmore: What divisions do you receive from the Rock Island Railroad on interstate shipments of lumber?

Mr. Murray: From two to four and a half cents.

Examiner Burchmore: Is four and a half cents the largest amount?

Mr. Murray: The maximum, yes, sir.

Examiner Burchmore: You have never received any more than that?

Mr. Murray: No.

Examiner Burchmore: How much do you receive from the Cotton Belt?

Mr. Murray: From one to two and a half or three cents, I think there is a three cent division to points on their own line in

4325 Texas. I am not sure as to that.

Examiner Burchmore: That seems to be the fact.

Mr. Murray: Yes.

Examiner Burchmore: How long have you been receiving divisions from the Cotton Belt Railway?

Mr. Murray: I don't know how long, but I presume a long period of years, ever since I have been connected with the company.

Examiner Burchmore: How long have you been receiving as much as three cents?

Mr. Murray: I think that arrangement has extended over perhaps the entire period.

Examiner Burchmore: Away back into the nineties, do you mean?

Mr. Murray: I do not know. I was not there, and I have not the information you ask.

Examiner Burchmore: But back as far as 1903 or 1904 anyway?

Mr. Murray: I think that is correct. My connection with the Fordyce Lumber Company, and the Fordyce & Princeton Railroad Company dates since December, 1905.

Examiner Burchmore: They were receiving them then?

Mr. Murray: Yes, sir.

4326 Examiner Burchmore: Have they ever received more than three cents from the Cotton Belt?

Mr. Murray: No.

Examiner Burchmore: The present divisions are as liberal as they have ever had from the Cotton Belt.

Mr. Murray: Yes, sir.

Examiner Burchmore: When did you first receive divisions from the Rock Island?

Mr. Murray: As soon as we connected with them.

Examiner Burchmore: That was in the fall of 1907?

Mr. Murray: I think it was in perhaps June, 1907.

Examiner Burchmore: And has your company any contract with the Rock Island?

Mr. Murray: It has.

Examiner Burchmore: A copy of such contract was filed with the Commission?

Mr. Murray: Yes, sir.

Examiner Burchmore: It seems to be dated November 5th, 1907. The Fordyce Lumber Company is also a party to that contract.

Mr. Murray: Yes.

Examiner Burchmore: Are you familiar with the terms of

4327 that contract?

Mr. Murray: I have read the contract, yes, sir.

Examiner Burchmore: It seems to be a standard form of contract that the Rock Island has with a number of short line railroads?

Mr. Murray: I have never seen any other contract except the one with the Crossett Railway; it is identical with that, I think.

Examiner Burchmore: The Rock Island filed with the Commission at the same time a dozen or more contracts, and this seems to be similar.

Mr. Murray: Yes, sir, I think there is no difference.

Examiner Burchmore: It provides that the Fordyce & Princeton Railroad Company shall receive divisions from the Rock Island varying from two cents to four and one-half cents per 100 pounds on lumber?

Mr. Murray: Yes, sir.

Examiner Burchmore: It also provides that the Fordyce Lumber Company will furnish them a substantial part of its tonnage.

Mr. Murray: I do not think it is the Fordyce Lumber Company, but the Fordyce & Princeton Railroad Company; I think the contract perhaps reads that the Fordyce Lumber Company shall deliver—no, I think it is like I stated, the Fordyce & Prince-
4328 ton Railroad.

Examiner Burchmore: What was it you understood?

Mr. Murray: I understood the Fordyce & Princeton Railroad Company guaranteed the tonnage, but not the lumber company.

Examiner Burchmore: Well, the lumber company is also a party to the contract.

Mr. Murray: Yes, sir, it is a party to the contract.

Examiner Burchmore: And the contract speaks for itself.

Mr. Murray: Yes, sir.

Examiner Burchmore: I presume when the Rock Island built in there to Fordyce and this contract was entered into, your company began to give the major portion of its tonnage to the Rock Island.

Mr. Murray: No, sir, not immediately. I do not think that our records would show that.

Examiner Burchmore: Well, the contract obligated you to give more than 50 per cent of your tonnage to them?

Mr. Murray: Not more.

Examiner Burchmore: At least 50 per cent.

Mr. Murray: At least 50 per cent under certain conditions, and one of those conditions was that there should be a sufficient supply of cars, but I rather think the first year the Rock Island was in there they were not able to furnish 50 per cent of the equip-
4329 ment, and therefore did not get 50 per cent of the business.

Examiner Burchmore: Where is Bryant's Switch?

Mr. Murray: Bryant's Switch is 11½ miles from Fordyce.

Examiner Burchmore: On the old main line?

Mr. Murray: Yes, sir.

Examiner Burchmore: Bryant's Switch is the billing point for most of your traffic over the Rock Island?

Mr. Murray: It has been for the major part of it, but Cynthiana from this time on or Trigg as soon as can be applied from Trigg, the major portion will be.

Examiner Burchmore: There are no logs originating at Cynthiana.

Mr. Murray: The logs we are receiving now, or a good portion of them, have been coming off the lumber company's spur beyond Cynthiana and delivered to the road at Cynthiana.

Examiner Burchmore: On the finished lumber the only service by the road is to move the empty car from the main line of the Rock Island or Cotton Belt up to the mill and then the loaded cars back.

Mr. Murray: Yes, but we have the side track in both their yards.

Examiner Burchmore: The interchange track?

4330 Mr. Murray: Yes, sir.

Examiner Burchmore: But the allowance is intended to and does cover the movement of the logs from the junction with your line and the logging tracks of the lumber company down to the mill?

Mr. Murray: Yes, sir, it is intended to cover all the service performed.

Examiner Burchmore: And you receive no additional compensation from the lumber company?

Mr. Murray: No, excepting as it has happened, if you will refer to the complaint, there was a time when we sent our engine and material back on the lumber company's spur from Old Junction, and at that time we charged them $1.00 a car additional for that service.

Examiner Burchmore: When did you cease doing that?

Mr. Murray: As soon as we ceased to send the engine back after them.

Examiner Burchmore: What date was that?

Mr. Murray: That was about the date we began to get logs at Cynthiana. They still have a spur out there, and if we go out there we will charge them again.

Examiner Burchmore: Have you any contract with the Fordyce Lumber Company?

4331 Mr. Murray: No written contract.

Examiner Burchmore: What contracts have you?

Mr. Murray: It is just that understanding, they will pay us $1.00 a car on any logs it is necessary for us to send our engines off our rails to get.

Examiner Burchmore: Is there any billing to cover the movement of the logs into the mill?

Mr. Murray: Nothing but slip billing, such as has been described here.

Examiner Burchmore: Made out by the conductor?

Mr. Murray: Yes, sir.

Examiner Burchmore: The agent who makes out the bills of lading at Fordyce is a joint agent of the Fordyce & Princeton Railroad and the Fordyce Lumber Company, a joint employé?

Mr. Murray: Yes, sir.

Examiner Burchmore: Does he make out any waybills?

Mr. Murray: Yes, sir.

Examiner Burchmore: Through waybills?

Mr. Murray: We waybill through, yes, sir.

Examiner Burchmore: Do you settle with the Rock Island on an interline basis?

Mr. Murray: Yes, sir, and with all the other roads.

Mr. Gaugham: Describe the territory into which the For-
4332 dyce & Princeton Railroad Company, is now constructing its line of road, that is in between Moro Creek and Saline River.

Mr. Murray: You have reference to the line we have just taken over?

Mr. Gaughan: Yes.

Mr. Murray: Well, that is a territory that lies between the Moro

and the Sabine River and contains quite a large farming community with several country villages, and is so situated between this river and this creek that the people can hardly get out in winter time to their trading points on account of these places; it is a territory to be served.

Mr. Gaughan: With railroad facilities, would Fordyce naturally be their market?

Mr. Murray: It is their natural market.

Mr. Gaughan: Is this Moro Creek a stream that it is difficult to pass during the winter and spring seasons?

Mr. Murray: It is very bad, the bottom is over a mile and a half to two miles wide, and the roads are terrible, and it overflows badly.

Mr. Gaughan: Are there other forest products in this territory to haul in addition to pine?

Mr. Murray: There are.

Mr. Gaughan: To what extent?

4333 Mr. Murray: The Hampton Stave Company own considerable acreage, a large acreage of hardwood timber land, and the Saline Lumber Company own a large acreage of timber land beyond the land of the Fordyce Lumber Company, and the hardwood timber is in the hands of the farmers very largely in that territory.

Mr. Gaughan: Is there any other railroad in that territory except the Fordyce & Princeton?

Mr. Murray: There is not.

Mr. Gaughan: And the Rock Island has not paralleled your line through there yet.

Mr. Murray: No.

Mr. Gaughan: That is in Cleveland County, is it not?

Mr. Murray: Yes, sir.

Mr. Gaughan: The old line of road was principally in Dallas County?

Mr. Murray: Entirely so.

Mr. Gaughan: This Moro Creek is the dividing line between Dallas and Cleveland Counties?

Mr. Murray: Yes, sir, it is the boundary.

Mr. Gaughan: Would you be able to approximate the number of shippers over at Trigg and the other villages in that vicinity that would be patrons of the railroad?

4334 Mr. Murray: I would not. So far as the merchants are concerned, there would be few at this time, but there are a very large number of others who use our line for the transportation of their staves and bolts which they make themselves and sell to the Hampton Stave Company at Fordyce.

Mr. Gaughan: Is it your purpose to encourage passenger service up into that territory?

Mr. Murray: It has been and is.

Mr. Gaughan: You say it has been and is?

Mr. Murray: Well, it is. We do not want to encourage it if we are not a common carrier, but we expect to if we are.

Mr. Gaughan: Well, do you think there is sufficient population

over in that territory with the natural increase that would come, to justify passenger service?

Mr. Murray: I think that together with the revenue that may be derived from a mail contract, that it would be.

Mr. Gaughan: Has any application been made to you by the people over there for the handling of mail?

Mr. Murray: We have been approached on the subject by several. We have made no application to the government, if that is what you mean.

Mr. Gaughan: You have not to the government?

Mr. Murray: No.

4335 Mr. Gaughan: This road has been operating under a charter as a common carrier for about how many years?

Mr. Murray: 20 years, 21, I guess.

Mr. Gaughan: Do you know whether this railroad company has ever exercised the right of eminent domain?

Mr. Murray: I do not know whether it has or not; not since my incumbency.

Mr. Gaughan: As a matter of fact it did, but I do not know whether it was since you came there or not.

Mr. Murray: I do not think it has since I have been in charge.

Mr. Gaughan: Does it own its own right of way?

Mr. Murray: It does.

Mr. Gaughan: Have you any telephone line on your road?

Mr. Murray: The lumber company owns a telephone line which parallels the railroad. The railroad does not own a telephone line.

Mr. Gaughan: That is all.

Mr. Cowan: It appears you receive from the lumber from the Fordyce Lumber Company, $27,000 on 23,000 tons, and it would therefore appear that you must have received your maximum divisions most of the time on the lumber you sent out. I will ask

4336 you to state whether it is a fact that your shipments mainly go to the points where you receive the maximum divisions from the Rock Island and the Cotton Belt.

Mr. Murray: I would say that a considerable proportion of the shipments move to points on which the division is four cents and four and a half cents.

Mr. Cowan: It would seem to figure that.

Mr. Murray: Yes, sir.

Mr. Cowan: Generally speaking, in the lumber business in that part of the country, do you know whether the mills having connections with the roads receiving divisions, do ship their output mostly to the points where they get the best divisions?

Mr. Murray: I have no information outside of ourselves.

Mr. Cowan: Do you happen to know whether or not you get the same division into the same territory from Fordyce from the Cotton Belt Line that other roads like yourselves, tap lines, we will call them, get from the Rock Island and Cotton Belt?

Mr. Murray: I don't know.

Mr. Cowan: It appears also in the statement we have here that a

large part of your additional revenue from other traffic for the year 1908, at least, was from switching, $1145 for switching.

Mr. Murray: Yes, sir.

Mr. Cowan: What would that be for?

4337 Mr. Murray: That was before the Arkansas Railroad Commission had required the Rock Island and the Cotton Belt to connect their two lines, and all the shipments from points on the Rock Island to points on the Cotton Belt rails and also all shipments from Cotton Belt points to points on the Rock Island rails, were handled by the Fordyce & Princeton.

Mr. Cowan: You connected the two roads?

Mr. Murray: Yes, sir; we do connect the two roads.

Mr. Cowan: At present do you do any switching for them?

Mr. Murray: Very little; it has been eliminated by the Arkansas Railroad Commission forcing them to make a physical connection.

Mr. Cowan: Do you know anything about the lumber mills in that part of the country, situated so that they do not get any division of the rates?

Mr. Murray: Do I know anything about them?

Mr. Cowan: Do you know of such?

Mr. Murray: No, I do not know of any lumber mill that gets a division of the rate.

Mr. Cowan: I mean that do not get it through the means of a tap line, where they have one. Do you know of anyone that logs and operates a logging road into the mill situated on a main line, which does not get a division from the main line?

4338 Mr. Murray: I have no knowledge of such.

Mr. Cowan: No knowledge on the subject?

Mr. Murray: No.

Mr. Cowan: That is all.

Mr. Coleman: Have you any other commodities which have joint rates other than on lumber?

Mr. Murray: We have a joint rate in on coal.

Mr. Coleman: That is mostly for your own use?

Mr. Murray: Mostly for the use of the company.

Mr. Coleman: Nothing else out?

Mr. Murray: No.

Mr. Coleman: Where does the four and one-half cent division apply to?

Mr. Murray: To points on the Rock Island-Frisco rails, where they get the whole haul.

Mr. Coleman: I know, but what territory?

Mr. Murray: It applies to any territory on their own rails.

Mr. Coleman: I mean there is a graduated scale of divisions. Where is the four and one-half cents, on what haul would that apply, do you know?

Mr. Murray: That applies to any point on their rails.

Mr. Coleman: And what does the two cent apply to.

Mr. Murray: The two cent division applies to Memphis proper.

4339 Mr. Coleman: You do not know about the lumber company, do you?

Mr. Murray: Yes, sir.

Mr. Coleman: Where does most of their traffic go?

Mr. Murray: A very substantial proportion goes to Oklahoma, although we ship all over the Central States.

Mr. Coleman: That is all.

Mr. Gaughan: Did you state the consideration for this new line of road recently purchased?

Mr. Murray: I do not think I did.

Mr. Gaughan: State it.

Mr. Murray: It was $42,000. I think I did state the amount of the notes.

Mr. Gaughan: Was the difference paid in cash?

Mr. Murray: $5,000.

Mr. Coleman: You never asked for a joint rate out on any of the other stuff, did you?

Mr. Murray: What other stuff?

Mr. Coleman: Anything that might originate on your railroad, local produce.

Mr. Murray: There has not been anything originating there except in small quantities that have been handled locally.

Mr. Coleman: There never have been any requests for a
4340 rate out on anything but on lumber?

Mr. Murray: No.

Mr. Coleman: And the rate in is on coal, and that comes to you alone.

Mr. Murray: Yes, sir.

Mr. Garwood: Does the Fordyce Company ship much lumber, if any, to Texas?

Mr. Murray: No.

Mr. Garwood: Does it ship any?

Mr. Murray: I think we have made shipments to Texas, but we have no representative in that field.

Mr. Gaughan: You have not been shipping much to anybody last year, have you?

Mr. Murray: No.

Mr. Cowan: It appears that stave bolts, 4200 tons yielded $1900, that would be on a less basis of divisions than the lumber?

Mr. Murray: There is no division on that. That was entirely local business.

Mr. Cowan: That was the local rate from the shipping point?

Mr. Murray: Yes, sir, the stave mill is not on our road.

Mr. Cowan: They haul it to you?

4341 Mr. Murray: No, we haul it to Fordyce and they handle it from our tracks to the mill.

Mr. Cowan: You haul the bolts from points on your road?

Mr Murray: Yes.

Mr. Cowan: What is the rate in Arkansas on stave bolts?

Mr. Murray: I think it is approximately four cents, but I am not sure as to that.

Mr. Walter: It is the regular court tariff, is it not?
Mr. Murray: Yes, sir, whatever the regular court tariff is.

(The statement testified to by the witness, and heretofore identified, was received in evidence and thereupon marked Fordyce & Princton Railroad Exhibit No. 2, Witness Murray, received in evidence January 23, 1911, and is attached hereto.)

Mr. Gaughan: Up to what time does your statement cover?
Mr. Murray: That covers the year reported to the Commission, ending June 30th, 1910.
Mr. Gaughan: Has your outside business increased any since that was made?
Mr. Murray: Practically no change to date.
Mr. Gaughan: Is there any certainty of an increase in the outside tonnage now?
4342 Mr. Murray: There is.
Mr. Gaughan: Explain from what source?
Mr. Murray: The Sparkman Manufacturing Company of Fordyce have recently consummated a deal with the Fordyce Lumber Company for the delivery of its hardwood logs on its cars to a point of connection with the lumber company's logging roads, to the Fordyce & Princeton, and we will have that tonnage which we did not have before.
Mr. Gaughan: Where is their plant being built?
Mr. Murray: In the City of Fordyce.
Mr. Gaughan: What approximately will that tonnage amount to?
Mr. Murray: I have no definite means of knowing excepting I would think it would increase our outside hardwood tonnage perhaps double or treble. I know it will be more than double.
Mr. Gaughan: What will they make out of it?
Mr. Murray: The Sparkman Manufacturing Company make everything, from spokes to lumber.
Mr. Gaughan: All kinds of hardwoods?
Mr. Murray: Yes, sir.
Mr. Gaughan: What sized city is Fordyce?
Mr. Murray: About 4,000 people, we claim that; I guess perhaps the census would give us a little less.
4343 Mr. Gaughan: They take it a little closer?
Mr. Murray: Yes, sir.
Mr. Coleman: Does the lumber company supply the wood to this new company?
Mr. Murray: They will deliver it. The contract contemplates delivery on board of the cars in the woods.
Mr. Coleman: They are just there to utilize the by-product which your mill company does not care to handle.
Mr. Murray: Not for us alone. They are a large establishment, and they have simply purchased this tonnage which has not been moved heretofore.
Mr. Coleman: So of course it is an advantage to the mill company to have that hardwood utilized?
Mr. Murray: Well, I don't know whether it is or not at this time.

I am rather inclined to think it would be more valuable to keep it, but it does mean additional tonnage for the railroad company.

Mr. Gaughan: They also purchase logs from other people?

Mr. Murray: Yes, sir; up and down the trunk lines, and wherever they can buy the timber.

Mr. Walter: The Fordyce Lumber Company's interest in the logs ceases before the railroad company takes hold of them?

Mr. Murray: Yes, sir.

4344 Mr. Coleman: The Sparkman Mill is to be on the line of your railroad?

Mr. Murray: No.

Mr. Coleman: Where is that?

Mr. Murray: It is in the city of Fordyce.

Mr. Coleman: Your railroad will haul them from the mill and deliver them to them?

Mr. Murray: No, from the place the logs are received in the woods to the City of Fordyce. We get no outbound tonnage from them at all.

Mr. Coleman: You make the price on the logs delivered at Fordyce?

Mr. Murray: No.

Mr. Coleman: I mean to the Sparkman Manufacturing Company.

Mr. Murray: No. They buy them delivered on cars at a point in the woods.

Mr. Coleman: Then they pay the freight down to Fordyce?

Mr. Murray: Yes, sir, the Arkansas rate.

Mr. Coleman: The Arkansas local rate?

Mr. Murray: Yes.

(Witness excused.)

4345 Mr. Garwood: Before adjourning I would like to file in the record of the Groveton, Lufkin & Northern case, as a supplemental exhibit, the trackage contract between the Trinity County Lumber Company and the Groveton, Lufkin & Northern Railroad Company.

(The paper so offered and identified, was received and marked "Filed," as of January 23, 1911.)

Mr. Garwood: Your Honor may recall that Mr. Anderson testified during the trial that the contract under discussion had been practically agreed upon, but through negligence or inadvertence had not been signed, and I will file a copy of it.

I also file for the record of the Tremont & Gulf Railroad, some tonnage statistics which the Auditor was requested by the Commissioner to add to the statement which he would file.

(The paper so offered and identified, was received and marked "Filed," as of January 23, 1911.)

Mr. Walter: On behalf of the Shreveport, Houston & Gulf, I desire to file the statistics called for at the earlier hearing, also the map of the same road.

(The papers so offered and identified, were received and marked "Filed," as of January 23, 1911.)

4346 Mr. Walter: In the Angelina & Neches River, I desire to file a statement of revenue and tonnage which was also called for.

(The paper so offered and identified, was received and marked "Filed," as of January 23, 1911.)

Mr. Jones. I would like to know when the Mississippi, Arkansas & Western Road is to be heard?

Examiner Burchmore: Probably not until Wednesday.

Mr. Jones: If it could be a day longer than that, I would like it better.

Examiner Burchmore: I can put it at the foot of the list if you want it to go to the foot of the list.

Mr. Jones: How long will that be?

Examiner Burchmore: Thursday or Friday. You had better be here Thursday morning.

(Whereupon, at 5:30 P. M. the hearing in the above entitled matter was adjourned to January 24th, 1911, at 9:30 A. M.)

4347 ST. LOUIS, MO., *January* 24, 1911.

Met pursuant to adjournment at 9:30 A. M.

Examiner Burchmore: I will announce that this morning we will call up in the following order, following the Ouachita Valley Railway, the El Dorado & Wesson, the North Louisiana & Gulf, the Deering Southwestern, and the Beirne & Clear Lake. We will make no announcement further than that.

I also wish to make the announcement, to avoid any inconvenience on the part of counsel or witnesses, that following the hearing of the individual cases remaining on the docket, which will be taken up in order, the intervenors will be heard as far as possible: the intervenors will be reached probably Thursday, certainly on Friday, here at St. Louis, finishing on Monday at Chicago. In other words, instead of adjourning as previously announced to Chicago on Friday, we will not meet in Chicago until Monday.

Mr. Cowan: When you say finish on Monday in Chicago, you mean finish at the hearing beginning in Chicago on Monday.

Examiner Burchmore: I do not know whether we will adjourn Monday night in Chicago or not. Commissioner Harlan will preside. At any rate we will adjourn to Chicago on Monday morning.

4348 Mr. Cowan: In view of that I wish to ask your Honor for some subpœnaes. I suppose all I need to do is to write out what I want.

Examiner Burchmore: You can take that matter up with me during the noon hour.

Mr. Armistead: I represent the Malvern & Freeo Valley Railway. That road had its case up at New Orleans and a witness was called

unexpectedly, and we were called — for various statements supplementary to his testimony, and have just finished their preparation. I have them with me. Will it be in order to file them now.

Examiner Burchmore: Yes.

Mr. Armistead: They are all under seal and numbered and identified, and a letter accompanying them explaining the tenor of them.

(Papers so offered and identified, were received and marked "Filed", as of January 24, 1911.)

Mr. Walter: May I ask about what length of time the intervenors expect to occupy in the introduction of testimony?

Mr. Cowan: I do not konw. It depends on the cross examination. Probably five days.

4349 *Ouachita Valley Railway Company.*

C. A. BUSHNER, was called as a witness, and having been duly sworn, testified as follows:

Examiner Gutheim: What is your name?

Mr. Bushner: C. A. Bushner.

Examiner Gutheim: You live where?

Mr. Bushner: Millville.

Examiner Gutheim: Arkansas?

Mr. Bushner: Yes, sir.

Examiner Gutheim: What official connection have you with the Ouachita Valley Railway?

Mr. Bushner: I am its manager.

Examiner Gutheim: Have you a map of that road which you can file?

Mr. Bushner: I have it, yes, sir.

Examiner Gutheim: Will you have it marked, please.

(The map so offered and identified, was received in evidence and thereupon marked Ouachita Valley Railroad Exhibit No. 1, Witness Bushner, received in evidence January 24, 1911, and is attached hereto.)

4350 Examiner Gutheim: Going to the map, this road runs from Millville in a southerly and southeasterly direction to Stark?

Mr. Bushner: Yes.

Examiner Gutheim: What is the trunk line connection at Milleville?

Mr. Bushner: The Cotton Belt.

Examiner Gutheim: And at Stark?

Mr. Bushner: The Rock Island.

Examiner Gutheim: About what is the length of the main line of the road?

Mr. Bushner: About 28 miles.

Examiner Gutheim: Do you have an extensive mileage of spurs or sidings?

Mr. Bushner: No, not belonging to the Ouachita Valley.

Examiner Gutheim: What is the nature of the territory along the line of this road?

Mr. Bushner: In what particular?

Examiner Gutheim: Well, what industries are located on it?

Mr. Bushner: There is practically none aside from the Freeman-Smith Lumber Company at Millville.

Examiner Gutheim: You have a *located* here marked Locust Bayou.

Mr. Bushner: Yes, sir.

4351 Examiner Gutheim: What sort of a locality is that, any extensive population there?

Mr. Bushner: Probably 150 people; it is a little agricultural community with three or four stores, but no industries aside from agriculture in that neighborhood.

Examiner Gutheim: Where are the logging operations at present of the Freeman-Smith Lumber Company?

Mr. Bushner: Right at present they are about four miles from Millville.

Examiner Gutheim: That is going towards Stark?

Mr. Bushner: Yes, sir, right up at the top.

Examiner Gutheim: Is this Locust Bayou the remains of what was once a logging camp?

Mr. Bushner: No, that community as I understand it, has been there for years and years.

Examiner Gutheim: Before the railroad?

Mr. Bushner: Yes, sir.

Examiner Gutheim: What is the extent of the interest of the Freeman-Smith Lumber Company in this railroad?

Mr. Bushner: It is practically identical with the lumber company.

Examiner Gutheim: You mean the stockholders in both corporations are the same individuals?

4352 Mr. Bushner: Yes, sir.

Examiner Gutheim: Holding their stock in about the same proportion?

Mr. Bushner: Yes.

Examiner Gutheim: Was the road constructed by the Freeman-Smith Lumber Company?

Mr. Bushner: Yes, sir.

Examiner Gutheim: About how long ago?

Mr. Bushner: I think the road was built about 18 years ago. My association with the company has only been for the last ten months, and I know but little of its previous history.

Examiner Gutheim: Can you say when it was incorporated?

Mr. Bushner: I think in 1904.

Examiner Gutheim: About what is the valuation of the road as carried on the books?

Mr. Bushner: The 28 miles I think is valued at $77,000.

Examiner Gutheim: 28 miles, $77,000?

Mr. Bushner: Yes.

Examiner Gutheim: What is the indebtedness of the Ouachita Valley Railway at the present time?

Mr. Bushner: They have no indebtedness except that which is current.

Examiner Gutheim: To whom is the indebtedness that
4353 offsets the cost of the road due?

Mr. Bushner: The road itself was taken out of the assets of the Freeman-Smith Lumber Company, and transferred into the incorporation of the railway by dividend.

Examiner Gutheim: By dividend?

Mr. Bushner: Yes. The dividend——

Examiner Gutheim: Does $77,000 represent the actual value of the railroad, 28 miles in length, and the equipment of it?

Mr. Bushner: No, $100,000 for the equipment and the railroad.

Examiner Gutheim: How much?

Mr. Bushner: $100,000. There was $23,000 in equipment, and $100,000 for the railroad.

Examiner Gutheim: So that the 28 miles of road and equipment which you have has $100,000 valuation on your books?

Mr. Bushner: Yes.

Examiner Gutheim: Has that been the valuation carried since the incorporation of the company?

Mr. Bushner: Yes, sir.

Examiner Gutheim: And the amount of that $100,000 was paid by the Freeman-Smith Lumber Company?

Mr. Bushner: Yes, sir.

4354 Examiner Gutheim: Who are the present officers of the railroad?

Mr. Bushner: Mr. M. C. Smith is President, J. A. Freeman, Vice President, and myself its manager.

Examiner Gutheim: And do all three individuals have an official connection with the Freeman-Smith Lumber Company?

Mr. Bushner: Yes, sir.

Examiner Gutheim: About in the same capacity?

Mr. Bushner: Just about, yes, sir.

Examiner Gutheim: Will you explain briefly the character of the road from the standpoint of grading and weight of rail and number of bridges, buildings, and so forth?

Mr. Bushner: The iron is 30 pound iron; the bridges are well built bridges. That however has all been done since the road was bought, and was done with money that the road earned. I expect there is something over a mile and a quarter of bridges, all told. The grade through which the road is built is very easy, naturally, and a very level country, being very inexpensive. The ties are all standard, 18 standard ties to the rail.

Examiner Gutheim: Are the bridges steel or timber?

Mr. Bushner: They are timber.

Examiner Gutheim: Have you any buildings at any of
4355 your stations?

Mr. Bushner: We have one only, at Millville.

Examiner Gutheim: What equipment do you have?

Mr. Bushner: There are about 70 log cars, 2 cabooses, a motor car and 5 locomotives.

Examiner Gutheim: And the track and equipment is all standard gauge?

Mr. Bushner: Yes, sir.

Examiner Gutheim: About how many men do you have in your railroad service?

Mr. Bushner: I expect 60 or 65 men.

Examiner Gutheim: All employed entirely in the service of the railroad?

Mr. Bushner: Yes, sir.

Examiner Gutheim: Or partially also in the service of the lumber company?

Mr. Bushner: Well, all those are employed directly in the service of the railroad.

Examiner Gutheim: How about the general officers, are they all strictly in the service of the railroad?

Mr. Bushner: No.

Examiner Gutheim: Are their wages paid entirely by the railroad or partially by the railroad and partially by the lumber
4356 company.

Mr. Bushner: You mean these two office employés?

Examiner Gutheim: Yes.

Mr. Bushner: They are paid partly by the railroad and partly by the lumber company. We have only two such, however.

Examiner Gutheim: About how extensive is your train service?

Mr. Bushner: We run one train a day to Stark and return.

Examiner Gutheim: Is that a freight mixed or——

Mr. Bushner: Freight mixed, yes, sir.

Examiner Gutheim: Does it run on a regular schedule?

Mr. Bushner: Yes, it does.

Examiner Gutheim: Published time cards?

Mr. Bushner: The Rock Island trains are down there at 12:20 in one direction, and another at 2:20, and these trains meet the Rock Island connections.

Examiner Gutheim: Do you handle any United States mail or express?

Mr. Bushner: No.

Examiner Gutheim: Can you furnish us with a statement showing the total tonnage and revenue of the road for the last fiscal year divided between the tonnage and revenue accruing on the
4357 business of the Freeman-Smith Lumber Company and that accruing on the business of the outside public?

Mr. Bushner: I can show you the tonnage but not the revenue. I prepared that statement and did not understand I expect correctly, but I have the tonnage, which will give the idea you want, I guess.

Examiner Gutheim: You can state the figures of the tonnage.

Mr. Bushner: This is for the last 18 months, instead of 12 months.

Examiner Gutheim: Beginning and ending when?

Mr. Bushner: Beginning July 1st, 1909, until January 1st, this year. The outgoing freight originating on our line by the Freeman-Smith Lumber Company is:

Logs, 149,647 tons.
Lumber, 24,268 tons.
Forest products from others, originating on our line, 425 tons, and other agricultural products from others, 25 tons, or a total of 450 tons originating from other sources, as against 173,915 tons originated by the Freeman-Smith Lumber Company. However, I want to call your attention to the fact that this 173,000 tons includes the logs in to the mill; they are milled in transit.
Examiner Buchmore: That is, you show the tonnage of the logs, and of the lumber which comes out of the logs?
4358 Mr. Bushner: Yes, both.
Examiner Gutheim: So that substantially all of the traffic is furnished by the Freeman-Smith Lumber Company?
Mr. Bushner: A very large portion of it.
Examiner Burchmore: How much lumber did you handle exclusive of logs?
Mr. Bushner: In feet?
Examiner Burchmore: No, in tons.
Mr. Bushner: 24,268.

(The paper so offered and identified, was received in evidence and thereupon marked Ouachita Valley Railway Exhibit No. 2, Witness Bushner, received in evidence January 24, 1911, and is attached hereto.)

Examiner Gutheim: Will you prepare and file another statement showing this division not only on the basis of tonnage but also on the basis of revenue?
Mr. Bushner: All right, I will do so.
Examiner Gutheim: And send it to the Commission?
Mr. Bushner: All right, sir.
Examiner Burchmore: Also separate your statement into the fiscal year and into the six months subsequent.
Mr. Bushner: All right, I will do that.
Examiner Gutheim: Does all this lumber move on joint
4359 rates to which the Ouachita Valley Railway is a party?
Mr. Bushner: Practically all of it.
Examiner Gutheim: And does it move under through rates via both your connections?
Mr. Bushner: Yes, sir.
Examiner Gutheim: What divisions do you receive on lumber from the Cotton Belt?
Mr. Bushner: The Cotton Belt ranges from one to two and a half cents.
Examiner Gutheim: And from the Rock Island what divisions do you get?
Mr. Bushner: Two to five cents.
Examiner Gutheim: Referring to your map again, where are your logging operations at the present time?
Mr. Bushner: About four miles from Millville, away up at the head of the map.
Examiner Gutheim: And the logs are milled at Millville?

Mr. Bushner: Yes, sir.

Examiner Gutheim: And thence delivered to the Cotton Belt?

Mr. Bushner: A part.

Examiner Gutheim: How much of a haul do you perform with your own power in hauling your manufactured products to the Cotton Belt at Millville?

4360 Mr. Bushner: Nothing.

Examiner Gutheim: The Cotton Belt takes it out with its own power?

Mr. Bushner: Yes, sir.

Examiner Gutheim: How much of a haul do you perform in making deliveries to the Rock Island at Stark?

Mr. Bushner: We worked for that; it is 28 miles.

Examiner Gutheim: Do you have to run trains to Stark for the express purpose of making that delivery, or does the lumber go over on your logging trains?

Mr. Bushner: That train is run for the express purpose. We would be obliged to run that train for that purpose alone in any event when we go below Stark.

Examiner Burchmore: From which direction are you logging from Millville?

Mr. Bushner: Just south.

Examiner Burchmore: How long have you been logging there?

Mr. Bushner: We have been there six or seven months and will be there until probably next September.

Examiner Burchmore: Where were you logging previous to that time?

Mr. Bushner: Down below Stark.

4361 Examiner Burchmore: And for that purpose you utilized the private logging tracks of the lumber company?

Mr. Bushner: In logging we use the iron of the logging company, yes, sir; that is correct.

Examiner Gutheim: When you were logging below Stark, it was not necessary to run your trains specially from Millville to Stark for the purpose of effecting delivery of the lumber to the Rock Island?

Mr. Bushner: It certainly was.

Examiner Gutheim: Could not they have taken it out on the same logging trains?

Mr. Bushner: Not and comply with the Interstate Commerce law. That caboose which handles that freight is equipped with standard appliances, and the logging cars are not.

Examiner Gutheim: How long ago did the Rock Island come into this country, so as to give you the second connection?

Mr. Bushner: I think it was 1906.

Examiner Gutheim: And at the time they came in, did you make a contract with the Rock Island providing for divisions to be allowed your line?

Mr. Bushner: Yes, there was a contract made with us, that was prior to my connection with this company.

4362 Examiner Gutheim: And that contract is the one which named the divisions of two cents to five cents per 100 pounds?

Mr. Bushner: Yes, sir.

Examiner Gutheim: As a matter of fact about what is your average division per 100 pounds?

Mr. Bushner: Do you mean to the Rock Island, or to all roads?

Examiner Gutheim: Received from the Rock Island.

Mr. Bushner: I will just have to guess at that. I presume it would be about three and a half cents, and possibly four.

Examiner Gutheim: To put it another way, most of your shipments via the Rock Island go to the points to which you receive the highest divisions?

Mr. Bushner: Yes.

Examiner Gutheim: Does your contract with the Rock Island provide that you are to deliver to that line any certain portion of the tonnage of the Freeman-Smith Lumber Company?

Mr. Bushner: Yes—what is that?

Examiner Gutheim: Does it provide you are to deliver to the Rock Island any fixed portion of the tonnage of the Freeman-Smith Lumber Company?

Mr. Bushner: I have not seen that contract. I know the
4363 nature of all the contracts which were made, and whether that contract was made by the railroad or the Freeman-Smith Lumber Company, or jointly, I am not prepared to swear; but all the mills in there, when the Rock Island showed up on the horizon of our troubles to furnish relief, did agree to furnish them with a substantial quantity of tonnage and were very glad to do it.

Examiner Gutheim: As a matter of fact, there is a copy here which shows that the lumber company is a party to the contract and provides 50 per cent, at least, to go to the Rock Island.

Examiner Burchmore: It is a standard form of Rock Island contract.

Mr. Bushner: I think they are all alike.

Examiner Gutheim: Do you publish any local tariffs?

Mr. Bushner: We use the court tariff.

Examiner Gutheim: Is that filed with the Interstate Commerce Commission?

Mr. Bushner: I think it is.

Examiner Gutheim: Do you have any trouble rates on commodities other than lumber and forest products?

Mr. Bushner: Out of Millville?

Examiner Gutheim: Out of Millville or into Millville?

Mr. Bushner: There are some that I know; I do not
4364 know—yes, we have rates on hay and feed stuffs and coal and fertilizers into Millville, and other commodities; I do not remember them all.

Examiner Gutheim: Are those via both trunk lines?

Mr. Bushner: No.

Examiner Gutheim: Which one?

Mr. Bushner: The Rock Island.

Examiner Gutheim: Do those rates apply also to Locust Bayou?

Mr. Bushner: Yes, sir.

Examiner Gutheim: What divisions do you get on the inbound commodity rates?

Mr. Bushner: I could not answer that.

Examiner Gutheim: Is that provided for in the contract, do you know?

Mr. Bushner: No, I think not. I do not think that was embodied in the contract at all.

Examiner Gutheim: Do you make annual and monthly reports to the Interstate Commerce Commission?

Mr. Bushner: Yes, sir.

Examiner Gutheim: That is all.

Mr. Gaughan: I see from your statement, Mr. Bushner, not a great quantity of forest products have been handled from
4365 that territory by this railway except forest products originating from the Freeman-Smith Lumber Company. I wish to ask you whether or not the Freeman-Smith Lumber Company does any hardwood business?

Mr. Bushner: No, sir.

Mr. Gaughan: Is there any substantial quantity of hardwood in that territory?

Mr. Bushner: Yes, there is a great deal of it.

Mr. Gaughan: Has that been developed yet?

Mr. Bushner: No.

Mr. Gaughan: I wish you would let your evidence show the extent of that tonnage, and whether or not it will be developed soon, or whether the prospects are that it will.

Mr. Bushner: You wish me to make a statement in regard to that now?

Mr. Gaughan: Yes.

Mr. Bushner: I have had examined recently three of the better townships; the estimate is not complete, of the hardwood; but I have these figures with me for other purposes, and on these three townships I find something like 22,000,000 feet, and gauging what remains unexamined by what we have examined I should judge we would have on our own land something like 60,000,000 feet
4366 of hardwood; that is my rough estimate of it now.

Mr. Gaughan: How would that quantity of hardwood compare with the total quantity of hardwood in the territory; that is to say, when you include hardwood held by others than the Freeman-Smith Lumber Company.

Mr. Bushner: There is considerably more held by others than by the Freeman-Smith Lumber Company, as the Freeman-Smith Lumber Company bought their land for pine, and have been disregarding the hardwoods. What they have is just an accidental possession.

Mr. Gaughan: Is there any other railroad in that territory by which the hardwood can be marketed, except this railroad?

Mr. Bushner: No, not in that territory.

Examiner Burchmore: How far is it from your line to the Beardon & Ouachita River Railroad?

Mr. Bushner: Well, you understand that the bulk of the hardwood, Mr. Burchmore, lies along the Ouachita River, in those townships that approach it, and Moro Creek, which does not show on my plat, and our road is between the Beardon River and the Ouachita River.

Mr. Gaughan: There is no other line between your road and the Ouachita River timber land?

4367 Mr. Bushner: No.

Mr. Gaughan: Does your plat show by any markings the holdings of the Freeman-Smith Lumber Company?

Mr. Bushner: Yes, that line dotted in red is the holdings of the Freeman-Smith Lumber Company.

Mr. Gaughan: Does that mean the holdings of that company of land or coal and timber?

Mr. Bushner: That means the timber holding, that is, the land upon which we own the timber. A portion of it is timber deed and a portion warranty deed or fee simple stuff. I made an error in that map. That includes something like 10,000 or 11,000 acres of land which belongs to other parties, and we own only the timber, and it is shown there as being ours in fee simple, one would think, which is not correct.

Mr. Gaughan: Do you own both hardwood and pine, or only the pine?

Mr. Bushner: Some we only own the pine and some the hardwood and pine.

Mr. Gaughan: What proportion of the pine timber of the Freeman-Smith Lumber Company between Millville and Stark has been cut?

Mr. Bushner: Well, practically all of it. There is a little
4368 stretch southwest of Stark, between our road and the Rock Island which is not cut, but when this cut which we are now on is finished, about four miles from the mill, it practically cleans up all the territory between Stark and Millville.

Mr. Gaughan: Why did you move your logging operations back from east of Stark to the place where you are now operating?

Mr. Bushner: We had some short time timber deeds which were expiring or would expire next fall, and it was necessary to cut that timber before they did expire.

Mr. Gaughan: Do you carry passengers on your road?

Mr. Bushner: Yes, sir, and charge fares.

Mr. Gaughan: Does your statement show the number of passengers you carried, for instance, during the past six or eight months?

Mr. Bushner: The annual reports filed with the Commission show it.

Mr. Gaughan: The annual report shows all that?

Mr. Bushner: Yes.

Mr. Gaughan: What did these forest products consist of other than pine, as covered by your statement?

Mr. Bushner: That was stave bolts and manufactured
4369 staves, that is rough riven manufactured staves, not finished; and ties also.

Mr. Gaughan: Do you know about how many different people are engaged in that work?

Mr. Bushner: No, I do not. That was done before my association with the company.

Mr. Gaughan: What kind of ties are used in the railroad?

Mr. Bushner: By ourselves?

Mr. Gaughan: Yes.

Mr. Bushner: Standard oak ties, 6 x 8 feet.

Mr. Gaughan: You make your reports to the Commissions?

Mr. Bushner: Yes.

Mr. Gaughan: Both State and Federal?

Mr. Bushner: Yes.

Mr. Gaughan: What class of roadbed have you?

Mr. Bushner: We have a good roadbed and a good road. The only objection to it, of course, is the light steel which we are contemplating changing to heavier steel. The grade is very light, and there was not a great deal of work required to build a good road. It is well ditched, surfaced, and excellent tied. That is made necessary by the light steel, however.

4370 Mr. Gaughan: Do you own the right of way?

Mr. Bushner: Yes.

Mr. Gaughan: Do you know whether any condemnation suits have been maintained?

Mr. Bushner: I understand there were three or four condemnation suits; there is one I know which has been settled since my connection with the company, in last spring.

Mr. Gaughan: What is the character of the land through that territory, speaking of it from an agricultural point of view?

Mr. Bushner: It is very good. The soil is rich, and there is a large part of that territory which is adapted to rice raising, and it has been experimented with, and it has been demonstrated that it will raise rice; and there is much of it being farmed now by the cotton farmers, and successfully farmed.

Mr. Gaughan: If you think of any other matter you would like to bring out, you may do so.

Mr. Bushner: Well, you will note—I do not know whether this is of any importance to the Commission; if it is they can use it, and if not, they can disregard it—you will note there is a line from Locust Bayou to Camden. Camden is a town, I should judge, of

4371 3,000 people. The Board of Trade of Camden have approached us, and I have their letter with me, wanting us to make this extension and build this road into that territory. That territory perhaps from Locust Bayou to Camden is the richest agriculturally tributary to Camden, and I am told that practically three-quarters of the business done in Camden from the farmers develops right in through that territory. We have that under consideration, of course, awaiting a decision of these troubles we are now having.

Examiner Burchmore: Has the Rock Island recommended that building into Camden?

Mr. Bushner: No, sir.

Mr. Gaughan: He may file that letter?

Mr. Bushner: I wish to say in connection with that that the citizens of Camden are so anxious to have that connection and have us build the road, that they have offered to build a bridge across the Ouachita River, which would be a very expensive job, as it is a very tortuous stream, and to give us terminal facilities in Camden and also the right of way all the way from Locust Bayou into the town.

Examiner Burchmore: What is the distance from your line for the first five or ten miles south of Millville to the line of the
4372 Beardon & Ouachita River?

Mr. Bushner: Really I could not tell you. I don't suppose it is over four miles.

Mr. Garwood: I see a line there from Thornton on the Cotton Belt to Hampton in Clark County. What line is that?

Mr. Bushner: That belongs to the Thornton & Alexandria.

Mr. Garwood: Is that in connection with the Cotton Belt?

Mr. Bushner: Not to my knowledge. I think it is an independent line.

Mr. Gaughan: It is an independent line.

Mr. Garwood: What is the distance across country between your line and the Thornton & Alexandria?

Mr. Bushner: I think about ten miles. Hampton is about ten miles, I should judge.

Mr. Garwood: That line makes quite a curve down southwesterly toward your line. Now what is the distance as you go farther up above that southward curve, say from Locust Bayou across their line, of the Thornton & Alexandria?

Mr. Bushner: I could not tell you.

Mr. Garwood: It would be quite aways across the country?

Mr. Bushner: I should judge 10 or 12 miles, but really I do not know that.

Mr. Garwood: If it is only ten miles to Hampton, if you
4373 draw an air line across, it would be much farther, would it not?

Mr. Bushner: What is the township number Hampton is in?

Mr. Gaughan: 1317.

Mr. Bushner: It is not ten miles north of us, then.

Mr. Gaughan: From Locust Bayou to Hampton is about 12 miles.

Mr. Garwood: Is there any other railroad development in that large territory between your line and this Thornton & Alexandria line at all?

Mr. Bushner: I think none aside from the Cotton Belt——

Mr. Garwood: Well, I know, between——

Mr. Bushner: I think not.

Mr. Garwood: What is the character of the country in there?

Mr. Bushner: I do not know that country. I have never been in it.

Mr. Garwood: You do not know?

Mr. Bushner: No.

Mr. Garwood: I did not get the length of your line.

Mr. Bushner: 28 miles.

Examiner Burchmore: The Stout-Greer Lumber Company has a

private tram road extending from the Thornton & Alexandria
4374 from Hampton apparently in a southerly or westerly direction. How near does that tram road come to your line?

Mr. Bushner: I could not answer that, Mr. Burchmore. I would say about 10 or 12 miles, but I have never been on it, and have never seen it on the map, and I have nothing to judge from further than a guess.

Examiner Gutheim: Is the financial operation of the road successful?

Mr. Bushner: Why I think we will—we have not been, simply because we have had to spend all we could make and more too, to get the road in the shape it was necessary to get it to haul the trains over the light steel and change these bridges and put in these additional ties. For instance, it is requiring more ties in that track to hold up those trains on the light steel than a standard railroad is calling for, and all those take time and money.

Examiner Gutheim: Have you ever paid any dividends?

Mr. Bushner: No.

Examiner Gutheim: Are you carrying at the present time a deficit or a surplus?

Mr. Bushner: I think there is a deficit, yes, sir—no, there is not a deficit since the date of the incorporation. There was a loss-
4375 last year and the year before, and since we have been working on the road to get it in shape for the Rock Island's business.

Examiner Gutheim: Has the net result of your incorporation been a loss or a gain?

Mr. Bushner: I think there has been a slight gain over the former period of years.

Examiner Gutheim: Do you carry a cash account of your own for the railroad, or are all the financial operations transacted through the cash of the Freeman-Smith Lumber Company?

Mr. Bushner: No, they are entirely apart. They have their own banking connections and systems.

Mr. Cowan: I figure that your lumber and logging tonnage bears the ratio of one to six; that is to say, the tonnage of lumber and the tonnage of logs which you gave would indicate that six tons of logs makes a ton of lumber.

Mr. Bushner: Six tons of logs make one ton of timber? No, that is wrong.

Examiner Burchmore: I believe this is the point. You had 143,000 tons——

Mr. Cowan: 149,000.

Mr. Bushner: That does not signify anything at all. You cannot check from that.

Examiner Burchmore: The point is this, all your logs that
4376 went into the mill moved over this railroad?

Mr. Bushner: Yes, sir.

Examiner Burchmore: Part of the lumber moved from Millville down to Stark?

Mr. Bushner: Yes, sir.

Examiner Burchmore: And the balance of the lumber did not move over the road?

Mr. Bushner: We did not handle it, and it does not go into those reports.

Examiner Burchmore: It was handled over the Cotton Belt?

Mr. Bushner: Yes.

Mr. Cowan: I supposed he got divisions out of it, and he has given the tonnage that got a division.

Mr. Bushner: We got a division, but the railroad did not haul it or receive anything on it except its pay as due to the division.

Mr. Cowan: You get a division on the basis of so much per hundred pounds?

Mr. Bushner: Yes.

Mr. Cowan: You are therefore bound to keep an account, or I suppose you are, of the number of hundreds of pounds you have?

Mr. Bushner: Yes, sir.

4377 Mr. Cowan: From the number of hundred pounds you get at the tons?

Mr. Bushner: Yes.

Mr. Cowan: Now you say your road handled for the lumber company, 24,265 tons of lumber?

Mr. Bushner: Yes, sir.

Mr. Cowan: That would carry to my mind the suggestion that you got divisions on that.

Mr. Bushner: Yes.

Mr. Cowan: Now, how was that?

Mr. Bushner: We did. That was lumber that was actually handled over our rails and delivered to the Rock Island.

Mr. Cowan: 24,000 tons to the Rock Island?

Mr. Bushner: Yes, sir.

Mr. Cowan: Now how many tons did you deliver to the Cotton Belt?

Mr. Bushner: I do not know.

Mr. Cowan: Do the books show?

Mr. Bushner: No, they should not show. We did not handle that tonnage a foot over our rails. We haul the raw logs in——

Mr. Cowan: How did you manage to get at a settlement with the Cotton Belt then as to the one, two or three cents per

4378 hundred pounds

Mr. Bushner: Well, that is correct, too; we keep a record of that all right.

Mr. Cowan: Don't you keep a record of the number of hundreds of pounds as well as the amount of money?

Mr. Bushner: Yes.

Mr. Cowan: Why do you say your books do not show it?

Mr. Bushner: It shows it, but not in the way you are figuring it shows it. We do not take the tonnage into account in our books. We keep a record of the car and of its weight when returned, but we do not show it as tonnage which we handle, because we did not handle it.

Mr. Cowan: You mean the books of the railroad company do not show——

Mr. Bushner: Does not show the tonnage handled that they did not handle. It is the revenue.

Mr. Cowan: How did you manage to get a division from the Cotton Belt?

Mr. Bushner: Simply because we milled that stuff in transit at Millville, it originates on our line, and we have hauled that from these points, from Stark or Locust Pond Point to Millville, and they are paying us the milling in transit rate.

Mr. Cowan: You hauled what?

4379 Mr. Bushner: Logs.

Mr. Cowan: You did not haul any lumber from there?

Mr. Bushner: No.

Mr. Cowan: When you bill the lumber out, where do you bill it from?

Mr. Bushner: From Millville.

Mr. Cowan: It does not show to have been billed from your line at all?

Mr. Bushner: It does not show right on our bills, that is right. The bills should show the original point of shipment, which they do not show.

Mr. Cowan: When you make a settlement with the Cotton Belt, you settle on the basis of the amount of lumber it ships from your mill?

Mr. Bushner: Yes, sir.

Mr. Cowan: And you do have the tonnage, and by tonnage I mean the number of pounds, on the books kept by the Auuditor?

Mr. Bushner: Yes, sir.

Mr. Cowan: And you have the number of hundred pounds that you settled on the basis of two cents per hundred pounds or four cents per hundred pounds, or whatever it may be.

4380 Mr. Bushner: Yes, sir.

Mr. Cowan: You are bound to have that?

Mr. Bushner: Yes.

Mr. Cowan: Will you put in your statement the tonnage, and by tonnage I mean weight of the lumber, which the Cotton Belt shipped from your mill?

Mr. Bushner: Do you want it included in this statement?

Mr. Cowan: Yes.

Mr. Bushner: I will do that.

Mr. Cowan: You have not it before you?

Mr. Bushner: No, I have not, but I will do it.

Mr. Cowan: Do you recall now about what proportion of your lumber goes to the Rock Island?

Mr. Bushner: The proportions have been changing some in the past year. For the first six months of this year I can give you only what I know since my association with this company—for the first six months of this year, we about equally divided our Rock Island and Cotton Belt deliveries. However this was done for a purpose, a selfish one, and which proved us to be rather foolish in the end, possibly. That was so that during the car shortage we could get a

little better service from the Cotton Belt and a little better to
4381 them, but it did not work, and when we went around to talk to the Cotton Belt about the things we had done, and wanted them to do for us, they sent us some place else, and we wore out a pair of shoes turning from one to the other, and then we turned practically all the business to the Rock Island, deciding if we patronized one road better than the other, we would get better car service from it.

Mr. Cowan: During the year 1910, do you have some general recollection of the proportion of lumber going to each road?

Mr. Bushner: No, I do not, simply because I was not on the ground and there is nothing to show it.

Examiner Burchmore: Show that tonnage of lumber moving over the Cotton Belt, as a separate item.

Mr. Bushner: I will do that in this report.

Examiner Burchmore: Show it separately.

Mr. Bushner: Separately.

Mr. Cowan: I would like for you to show the amount of divisions which you get on the traffic delivered to the Cotton Belt separately from the traffic delivered to the Rock Island. You have an estimate of the tonnage of logs, 149,647 tons, which would indicate that there had been some record and some calculation and not a
4382 mere guess on the tonnage. How was that kept, and why was it kept?

Mr. Bushner: Well, that was necessary; we needed to keep it. We kept that separate simply because it was strictly a business matter to keep it. We hauled it and handled it.

Mr. Cowan: Nobody paid any freight on it?

Mr. Bushner: Oh, yes.

Mr. Cowan: Who paid freight on those logs?

Mr. Bushner: The Freeman-Smith Lumber Company.

Mr. Cowan: To whom?

Mr. Bushner: To the O. V. Railway.

Mr. Cowan: What freight did they pay on these logs?

Mr. Bushner: They pay $4.00 a car. They operate under a contract between the Freeman-Smith Lumber Company and the Ouachita Valley Railway.

Mr. Cowan: And the Freeman-Smith Lumber Company pays $4.00 a car over and above what you get as a division from the railroad on the lumber?

Mr. Bushner: Oh, yes, sir.

Mr. Cowan: But that is not estimaed by the tonnage but by the car.

Mr. Bushner: That is by the car, yes, sir.

Mr. Cowan: So you would not keep tonnage statistics for
4383 that?

Mr. Bushner: I will tell you how that is arrived at. We keep track of these cars; we know from experience how many thousand feet of logs each car will carry, and it figures on our cars about 2200 feet, if I remember correctly; and we know that it is ex-

pected that a log weighs eight pounds to the foot, and in that way we arrive at the actual tonnage.

Mr. Cowan: I would like to know what you mean by the foot.

Mr. Bushner: Board foot, log scale.

Mr. Cowan: How do your logging cars compare with those that are in common use?

Mr. Busher: At other plants?

Mr. Cowan: Those that are in common use, do you have a standard car?

Mr. Bushner: No, it is a regular skeleton car used for that purpose. There is a difference in the width, some of them are built with 11 foot bunkers and some a little wider, and ours are 10 feet.

Mr. Cowan: The reason I am asking, you are among the very few men who has figures as to how much logs will weigh by the carload and how much when reduced to lumber, and for that reason I am asking you for the general purpose of the record,
4384 whether you have got similar cars to what other lumber companies use?

Mr. Bushner: There is no standard; one logging operation will use a car with one width of bunker, and another with another, and another will use a flat car.

Mr. Cowan: You said the figures I gave there, one to six cents—of course, I was assuming this was all the lumber out of the logs. About what would be the ratio of the tons of lumber as shipped out commercially on your railroad to the tons of logs shipped into the mill: in other words, about how many tons of logs would it take to make a ton of lumber as lumber is ordinarily moved, after being dried and planed.

Mr. Bushner: The log will weigh, and it is expected generally in our territory, 8 pounds to the foot, or 8000 pounds to a thousand feet; that is in the log. Immediately that it has been milled into the ordinary product that we put it into the lumber, from. That 8000 pounds will weigh green 4000 pounds, which would indicate that there is 50 per cent of that log lost in sawing and removing the edging and trimming. Dry that 4000 feet of dry lumber, and that is the condition we ship actually all our stuff, I should judge our average weight would be down in the neighborhood of 2300 pounds.

Mr. Cowan: Somewhere near one-quarter?

4385 Mr. Bushner: Yes, sir, in that neighborhood.

Mr. Cowan: That is after being dressed and dried?

Mr. Busher: Yes.

Mr. Cowan: That is pine?

Mr. Bushner: Yes, sir, short leaf.

Mr. Cowan: Would there be a difference in long leaf?

Mr. Bushner: Yes, sir, it would be heavier.

Mr. Cowan: What would that difference be?

Mr. Bushner: Probably ten per cent greater in weight for the finished product. I do not know what the log weighs.

Mr. Cowan: That is because it does not dry out so much?

Mr. Bushner: Because it is more heart and a sappy piece of lumber

will dry out much more than a heart piece; it is just as dry but it is naturally heavier.

Mr. Cowan: You spoke of an extension of your road being under consideration to Camden.

Mr. Bushner: Yes, sir.

Mr. Cowan: As I understand, your timber holdings would not be on that line?

Mr. Bushner: No, not from Locust Bayou into Camden.

Mr. Camden: If you built that line you would connect Camden with the Cotton Belt?

4386 Mr. Bushner: With the Cotton Belt and Iron Mountain.

Mr. Cowan: You do not need that line as an outlet for your lumber?

Mr. Bushner: No.

Mr. Cowan: It would be built, if at all, purely as a commercial proposition?

Mr. Bushner: Yes.

Mr. Cowan: And that is good farming country in there?

Mr. Bushner: Yes.

Mr. Cowan: I presume from what you have said it is already in farm?

Mr. Bushner: Let me read, with your permission, something which will show it better than I can. Here is a letter from Mr. Fred D. James, who is Secretary of the Board of Trade of Camden. This was written May 25th, 1909, and is addressed to Mr. Freeman, who is president of this railroad:

"The citizens of Camden are desirous of getting better railroad facilities than those we now enjoy."

Their facilities are now the Iron Mountain and Cotton Belt, which they never have much enjoyed.

"Preferably connection with the Rock Island at some contiguous point. Now since your road taps the Rock Island at a point

4387 below Hampton in Calhoun County and is within ten miles of Camden it is thought possible that you might be interested in a proposition to extend your road to Camden and thus give us the relief sought and at the same time put your road in line for more business and better business. eW feel that Campden has the physical location to make a much larger town than at present and we only lack the railroad facilities to make it such.

Would it not add something to your latter day achievements to have a large hand in the greater development of this section, aside from any pecuniary advantages you might receive? The section through which your road passes is rich in resources and unlimited in possibilities, and under the influence of the improvement which we suggest it would expand to an unthought of extent.

We would be pleased to have your views on this matter, and beg to say that if you can see your way clear to take this matter up this Board stands ready to lend you every reasonable assistance and hearty co-operation.

Awaiting your earliest convenience, and with best wishes, I am,

Very truly,

(Signed) FRED D. JAMES, Sec'y."

4388 Mr. Walter: What was the date of that letter?
Mr. Bushner: May 25, 1909.
Mr. Cowan: I suppose that is so long ago that has probably been dropped.
Mr. Bushner: Oh, no. I was called down to Camden in April or May of this year and this group of men wanted to meet me, and I met probably 60 or 75 very enthusiastic citizens of Camden who wined me and dined me and treated me very nicely, and among other things they offered to build the bridge across the river at Camden. You are familiar, I suppose, with the Ouachita River in Camden; and to furnish us terminal facilities in Camden and a right of way from Locust Bayou into the town. That was about eight months ago, about the time our troubles blew up.
Mr. Cowan: And you have it under contemplation now?
Mr. Bushner: Yes, sir, we have it, yes, sir.
Mr. Cowan: What do you figure it would cost you to build from Locust Bayou over to the bridge?
Mr. Bushner: It is going to be a very expensive job; there are probably two or three miles in the bottoms in which the trestle will be a very expensive feature. Aside from that, the lay of the country is very similar to what is up through our territory
4389 and there would be practically no grades in there.
Mr. Cowan: As a general *proclamation*, about what would cost a mile?
Mr. Bushner: I have not gone far enough with it to give you any estimate on that.
Mr. Cowan: Is this country between Camden and Locust Bayou ready settled up with farms?
Mr. Bushner: There are a great many farms in there.
Mr. Cowan: I do not understand from your evidence that there are any farms on your line between Millville and Stark.
Mr. Bushner: Millville and Stark, you mean from Locust Bayou to Stark.
Mr. Cowan: I thought your line ran from Millville on the Cotton belt down to Locust Bayou and down to Stark.
Mr. Bushner: Locust Bayou, I have just said, that all through there it is highly developed.
Mr. Cowan: Well, the amount of stuff you handled for other people seemed to have been so small——
Mr. Bushner: Well, I can explain that. Millville is not today a trade center for those farmers. You understand the way they trade
and do their business. They gin a bale of cotton and will
4390 give you the cottonseed to haul, but they will haul the bale of cotton down to Camden and make a connection down there. Those people at Locust Bayou I expect all do their business down there.
Mr. Cowan: So your railroad does not get the tonnage of agricultural products?
Mr. Bushner: No, it does not, what it should get.
Mr. Cowan: And I don't suppose it was built for that purpose?

Mr. Bushner: No, it was not originally. We want to develop it into that, however.

Mr. Cowan: You own land, of course, in a large amount around there?

Mr. Bushner: Yes.

Mr. Cowan: When this road was originally built, was there an organized railroad company which built it, or was it built by the mill company?

Mr. Bushner: Do you mean was it incorporated later?

Mr. Cowan: No, was it built by the railroad company or the mill company?

Mr. Bushner: In its construction by a railroad contractor for the mill company? I could not tell you. That was years ago. I have only been associated with the road ten or eleven months, but
4391 I know nothing of the previous history.

Mr. Cowan: There is somebody who does know?

Mr. Bushner: I do not think so, unless Mr. Gaughan.

Mr. Gaughan: You will remember Mr. Freeman's testimony is in this record in the Star Grain case, and he went into all that.

Mr. Cowan: That is all stated?

Mr. Gaughan: Yes.

Mr. Cowan: Is it correct to state that the mill company constructed the railroad before the railroad was organized?

Mr. Gaughan: Yes.

Mr. Cowan: When was it that they bought it?

Mr. Gaughan: About 1904.

Mr. Cowan: You do not know anything about the arrangement of these divisions unless something is shown in the contract?

Mr. Bushner: No, I do not.

Mr. Cowan: Do you of the country to which your lumber goes for consumption?

Mr. Bushner: In a general way, yes.

Mr. Cowan: State that please.

Mr. Bushner: I expect that 65 per cent of our lumber is consumed in the States of Ohio, Indiana and Illinois; we have
4392 some business in Iowa and some in Oklahoma, Kansas and Nebraska, and some in Missouri; but the larger part of it goes into that territory, probably 40 per cent of our lumber, or 35 per cent, goes into Illinois.

Mr. Cowan: What division do you get in that territory known as Central Freight Association territory?

Mr. Bushner: On all stuff shipped via the Rock Island, and that would be routed that way. We get a five cent division on points on their line in the State of Illinois via St. Louis.

Mr. Cowan: And on the Cotton Belt?

Mr. Bushner: We get 2½ cents, that is on this side.

Mr. Cowan: Then if you can avoid it, you do not ship anything on the Cotton Belt that goes to Illinois?

Mr. Bushner: The way the lumber business has been for the last few years, if it showed up, you did not ask much about how it affected the railroad, you simply took it.

Examiner Burchmore: But until the last two years——

Mr. Bushner: Oh, naturally in one of these Siamese twin corporations they are going to help each other out, certainly.

Mr. Cowan: Who are the twins? I don't quite follow you.

Mr. Bushner: The Freeman-Smith Lumber Company and the Ouachita Valley Railway. I admitted right on the start that the interests were absolutely identical, and there is no disput-
4393 ing it.

Mr. Cowan: I know you did, and I appreciate your candor.

Mr. Bushner: Why, of course.

Mr. Cowan: How long do you estimate that the lumber of the lumber company will last at the rate of cutting which you now have or contemplate?

Mr. Bushner: I spoke a little while ago of the estimate I was having made of the tract, and I only have part of it in. I think we will have probably 10 or 11 years' work.

Mr. Cowan: That is of the pine lumber?

Mr. Bushner: That is with the pine.

Mr. Cowan: Then you will have considerable hardwood?

Mr. Bushner: We probably won't handle that ourselves.

Mr. Cowan: Now your physical connection at the mill at Millville I suppose, from what you have said, is simply a connection of the Cotton Belt tracks right up to your planing mill and loading platform?

Mr. Bushner: Yes, sir.

Mr. Cowan: And you are adjacent to the Cotton Belt Railroad?

Mr. Bushner: Yes.

Mr. Cowan: And there are no other saw mills on your line or served by you?

4394 Mr. Bushner: No.

Mr. Cowan: Do you haul the traffic which you do haul for other people on local rates to the junction point, or on through rates?

Mr. Bushner: Yes, sir.

Mr. Cowan: Local rates?

Mr. Bushner: Well, business that is local. What class of business do you refer to?

Mr. Cowan: I am referring to the small amount you have for other people.

Mr. Bushner: Practically all that moves on local rates, simply because it is destined to points right in the neighborhood and there are no through rates published to them. Of course, they would get the same service as the Freeman-Smith Lumber Company would, shipping to the same points.

Mr. Cowan: Do you ship any lumber to points within the State of Arkansas?

Mr. Bushner: Yes.

Mr. Cowan: Do you get any divisions on that?

Mr. Buschner: No. However, our railroad gets the court tariff

allowance, and the Freeman-Smith Lumber Company pays for it.

4395 Mr. Cowan: For example, suppose you were shipping from the Cotton Belt station, you have no service to perform on the lumber?

Mr. Bushner: No.

Mr. Cowan: But if you are shipping on the Rock Island, you would have to haul it down there, and the Freeman-Smith Lumber Company would pay the freight at the local rate.

Mr. Bushner: Yes.

Mr. Cowan: Have you an idea about the quantity of lumber that is thus delivered in Arkansas?

Mr. Bushner: There is not a great deal; I don't suppose we have handled over 10 or 15 or 20 cars this last year in that way.

Mr. Cowan: This court tariff is simply an advance over the Arkansas Commission's tariff, is it not?

Mr. Bushner: As I understand it, it was a compromise. The Railroad Commission kept reducing rates and reducing rates and the railroads kept complaining, and they went before the Federal Judge there in our district and got an injunction restraining the Commission from reducing rates further, and between the court and the railroads and the Commission they compromised upon a

4396 rate which should be effective while this case was pending before the Federal court and——

Mr. Cowan: I understand that.

Mr Bushner: And in some instances it raises, and in some it lowers; it was a compromise tariff.

Mr. Cowan: At all events, so far as through rates and the application of through rates is concerned, the application remained the same?

Mr. Bushner: Yes, sir, it did not affect that.

Mr. Cowan: Do you know any reason why the Arkansas Commission was so interested in securing tap line allowances on interstate freight and has not adopted the same line of policy on state freight?

Examiner Burchmore: First, is the Arkansas Commission interested in having the tap line divisions maintained on interstate traffic, as you understand their attitude?

Mr. Bushner: I don't believe I can answer your question, Judge. Give me a little more of it, and maybe I can better understand it.

Mr. Cowan: The Arkansas Commission, as I understand it, has interested itself in behalf of sustaining the tap line divisions in through rates on interstate shipments of lumber that are involved in this case.

Mr. Bushner: Yes, sir.

4397 Mr. Cowan: I wondered if somebody in Arkansas who has a railroad operating there and who gets the tap line divisions from interstate shipments and does not get it from the state—I wondered if they would know why the Arkansas Commission had not themselves, having the power to do it, of course, had not done as much for the tap line roads on Arkansas traffic as they are asking

the Interstate Commerce Commission to do on interstate traffic, and that was the reason for my question.

Mr. Bushner: I do not know as I can answer it. It would be all a guess.

Mr. Walter: Well, as a matter of fact there is a one line rate and a two line rate, the two line rate being less per mile than if it was a one line haul. Is not that true?

Mr. Bushner: Yes.

Mr. Cowan: Is anybody certain of that?

Mr. Armistead: Do you mean under the court tariff?

Mr. Cowan: Yes. In Texas it is the other way.

Mr. Walter: It is not so in Louisiana or in Arkansas.

Mr. Garwood: He said to some extent it was a given per cent less than the sums of the two locals. He did not say that the two line rates——

Mr. Cowan: I think he intended to say that, but he did
4398 not. I think that is what you meant, was it not, Mr. Walter?

Mr. Walter: No, they make a rate for a two line haul which would be a little less than the same rate per mile if it was only a one line haul.

Mr. Gaughan: No, that is wrong——

Mr. Cowan: It would seem strange if they did that.

Examiner Burchmore: I think the Commission is informed on that.

Mr. Cowan: At all events, the witness cannot give any reason for that other than would be a guess.

Mr. Bushner: No, I cannot.

Mr. Cowan: We can find the other out when we examine the tariffs. Now for the purpose of getting at something pertaining to the operation, I wish you would include in your statement the number of train loads of logs hauled to the mill and the number of carloads. Let that be added to it. I had a memorandum of that, and should have called your attention to it some time ago, because it gives us for other cases some information that might not be easy to get.

Mr. Bushner: Yes, sir.

Mr. Cowan: Do you know any saw mill in Arkansas where the operation is based upon bringing the logs to the mill by a railroad where the mill is located on a trunk line, that the railroad
4399 which brings them in to the trunk line does not get a division of the rate.

Mr. Bushner: No, I do not know of a mill in Arkansas which is situated that way that they do not get a division of the rate. By that I mean those that I am intimate with and have knowledge of. I know they get a division. The others I don't know anything about.

Mr. Cowan: I was led to ask that because you said when the Rock Island got through that country all the interested saw mills in the country receiving that additional outlet, received a contract similar to the one you had.

Mr. Bushner: I want to qualify that. I mean all in our immediate territory. You take, for instance, the branch from Fordyce,

built over to Crossett, tapping the two large mills at Crossett and the Fordyce Lumber Company and our company and the Edgar Company, those concerns I am intimate with.

Mr. Cowan: You are confining your answer, of course now, to your district.

Mr. Bushner: Yes.

Mr. Cowan: If a mill is logging its mill similarly to what you are by a railroad, with a mill situated on the main line, having to perform a similar service to yours, of bringing the logs in at
4400 probably a somewhat similar cost, and it should not get a division, would not that mill be at a material disadvantage, assuming the common ownership of the railroad and the mill?

Mr. Bushner: It would unless it had compensating advantages.

Mr. Cowan: Assuming that other conditions were equal——

Mr. Bushner: Everything else being equal, of course they would be at a disadvantage.

Mr. Cowan: Is it not your opinion that on that account, seeing the willingness of the railroads to give the tap lines divisions, that practically all the saw mills in Arkansas which are logged by railroads, do get divisions.

Mr. Bushner: I did not get the last of it.

Mr. Cowan: Is it not your opinion that practically all the saw mills get those divisions?

Mr. Bushner: I think so, yes; it is my opinion that they do.

Mr. Cowan: That being the case it is a fact, is it not, that the trunk line railroads do not really get the rates of freight that are published, that is it does not go into the treasury from the place where the saw mills are located on their lines, but they get the rate less the divisions given.

4401 Mr. Bushner: Yes, sir.

Mr. Cowan: So the standard of earnings in the State of Arkansas would be somewhat similar to what they are from the stations that your line ships from?

(No reply.)

Mr. Cowan: Are you acquainted with the subject in Louisiana?

Mr. Bushner: With what?

Mr. Cowan: The same matters pertaining to the operation of sawmills in Louisiana?

Mr. Bushner: Well, in a general way. I have been in the milling business and in the milling territory for 18 years, and my information is just general.

Mr. Cowan: Where were you located before here?

Mr. Bushner: I have always been actively engaged in this section of the country, with the Gates interests and the Freeman-Smith interest.

Mr. Cowan: What interests?

Mr. Bushner: The Gates, that was the Crossett Lumber Company, at Crossett, the Gates Lumber Company at Wilmar, and this company.

Mr. Cowan: Are the conditions in Louisiana with respect to tap line allowances where logs are logged by a railroad, similar?

4402 Mr. Bushner: I do not know about that.

Mr. Cowan: Do you ship any lumber to Texas?

Mr. Bushner: No, I do not think we have shipped a car there since I have been with the company.

Mr. Cowan: Do you ship to Oklahoma?

Mr. Bushner: Yes.

Mr. Cowan: What are your divisions to Texas, or have you any?

Mr. Bushner: Yes, we have divisions, I think—you mean the Cotton Belt, do you not?

Mr. Cowan: Yes.

Mr. Bushner: I do not know. I know what you are driving at, though, and I will say to you that it is my understanding that there was a three cent division allowed to points on the Cotton Belt in Texas; in fact I have seen tariffs or division sheets that had that three cent division that has since been discontinued. Pardon me, but I presume that was what you wanted.

Mr. Cowan: You say you know what I am driving at, and I am curious to know if you know something I do not know, and I would like to know what you think I am driving at.

Mr. Bushner: You will have to pardon me, but we have no occasion to use those divisions and we ship nothing in there.

4403 Mr. Cowan: The Rock Island does not give you as high a division on the Texas lines as they do into Illinois?

Mr. Bushner: No.

Mr. Cowan: If the rates should be so adjusted that all mills were placed on an equality, what objection would there be to cancelling out the tap line divisions, if the rates could be so adjusted without divisions as to put the mills on an equality?

Mr. Bushner: What would be the equity in that? What about these fellows down in Texas getting the same rate into consuming territory that we do, with 1,500 miles less haul?

Mr. Cowan: That is the case now, and rates to Louisiana I suppose are substantially the same to Illinois as they are from your territory.

Mr. Bushner: It is a blanket from the entire territory. Would it be equitable for the man who operates in southeast Texas to receive the same rate on his product from a railroad company into Illinois as Mr. Foster up here at Malvern, we will say?

Mr. Cowan: Well, the rates have been established on the theory that that would be so.

Mr. Bushner: If that was all equalized we would say yes.

4404 Mr. Cowan: Suppose that everybody from the pine forest territory could have their rates so adjusted that everybody got equivalent privileges under the present system of blanket rates, what objection would there be to doing that?

Mr. Bushner: I will have to go right back to my own individual case. If you will refer to our reports and the record for the last year, we have spent thousands of dollars getting a tram line which we have not denied was not an ordinary logging road, which it was originally, and getting into condition to do business, and we have got it there or practically have got it there now, and I should not

think—it would be rather unfair to myself now to say that my railroad should not continue as I had planned and presumed it was going to be and earn the money it has been earning for the last 20 or 25 years. We have actually spent money on those roads.

Mr. Cowan: Well, I was just asking for the reason, as you have given it.

Mr. Bushner: Yes, sir.

Mr. Cowan: That is all.

Mr. Garwood: Is it not a fact that it is universally conceded by the trunk lines that by reason of the scales of wages that they
4405 pay by contracts with labor unions, the constructive mileage that they have to pay for that the employés do not actually earn, and a great many considerations of that sort, that the operation of short tap lines by trunk lines is not considered profitable from the trunk line standpoint, or practicable.

Mr. Bushner: I do not——

Mr. Garwood: That is the general opinion among trunk line railroads, is it not?

Mr. Bushner: I think so.

Mr. Garwood: Is it not also the general opinion among the trunk lines that it is more profitable to them as an operating proposition and as a financial proposition to give divisions to the local short roads that constitute their feeders for the origination of this tonnage, than it would be for them to build out into the territory and operate such short lines?

Mr. Bushner: There is no question about that, or in my mind about the truth of that proposition.

Mr. Garwood: Then if these short lines are not initiated and operated by the only people who could or would feel impelled to do it, it must follow that the tonnage lies idle, the country is
4406 undeveloped and the trunk line does not get the tonnage at all.

Mr. Bushner: There is no question about that line of reasoning, that the tap lines have developed those countries.

Mr. Garwood: And originated tonnage to the direct benefit of the trunk lines and relieved them of the expense of constructing and operating the short lines?

Mr. Bushner: Yes.

Mr. Garwood: Which is universally considered to be unprofitable

Mr. Bushner: And have developed the territory with it.

Mr. Garwood: And developed the territory?

Mr. Bushner: Yes.

Mr. Garwood: Counsel has asked you as to a comparison of the conditions of a milling interest served by a tap line which receives compensation for its services and these which do not. Is it not your opinion as a practical man that the liabilities, the duties, the risk upon the immense investment made and the interest upon that investment more than offsets, or at least offsets, any supposed advantages that might accrue from it.

Mr. Bushner: You give me that in just too long a dose.

Mr. Garwood: Well, I am propounding the questions, as-
4407 suming all the facts that he put into all his questions. Is it not a fact that the controlling interests of the lumber company that also constructs the short line railroad, by reason of the construction of a legal railroad, assume liabilities to the government, Safety Appliance Acts, Headlight Acts, Full Crew Act, Ashpan Act, liabilities of insurer as common carriers, personal injuries and an unlimited list of governmental liabilities that the other man is relieved from?

Mr. Bushner: Yes.

Mr. Garwood: Then they also take the risk of a large investment?

Mr. Bushner: Yes.

Mr. Garwood: The interest on that large investment is an element?

Mr. Bushner: Yes.

Mr. Garwood: Now, taking into consideration all of those factors, can it be possible that the man who has a mill served by a tap line interest has any market or competitive value over the fellow that does not.

Mr. Bushner: Well, all those things are true—I would have to think a whole lot about that answer. I do not like to answer
4408 that question, if you will excuse me.

Mr. Garwood: Perhaps the question is too long.

Mr. Bushner: It is too long for a person to answer without a stenographer.

Mr. Garwood: Well, the witness says all those propositions are true, and I think that is a sufficient answer to the question.

Mr. Bushner: It sounds like one of those hypothetical questions.

Mr. Cowan: I wanted to ask a question or two in view of your statement that those things are true. For example, Mr. Garwood assumed in his statement, or rather you expressed the opinion that the trunk lines you believed thought they could not operate these short lines except with certain burdens which he mentioned, of the Full Crew Law and the Hours of Labor, and so on. Is it your judgement that your railroad company can operate your line cheaper than the Rock Island or the Cotton Belt could do it?

Mr. Bushner: Yes, I believe we can. I believe we can in so far accomplish so much by one man in ten hours—I believe we can buy some materials cheaper.

Mr. Cowan: You also embraced in that general proposi-
4409 tion, and I suppose intended to convey the thought that that would be so with other tap lines similarly situated to what yours is, that they could operate cheaper than the trunk lines could operate them.

Mr. Bushner: I will qualify that a little. What I intended to say is I believe work that is closely supervised by persons who are as interested as a fellow is—take my position with reference to this company, I see it all; I am president and general manager of the whole thing so far as interest goes, and it stands to reason I can get better efficiency for the expenditure of $1.50 for a man than Mr.

Nelson. You lose a lot of interest before you get to the section gang.

Mr. Garwood: You have no union labor contracts to make

Mr. Bushner: No.

Mr. Garwood: You do not contract with firemen, engineers, conductors, trainmen, and switchmen?

Mr. Bushner: No.

Mr. Cowan: It has been a question of considerable discussion recently before the Commission, as to whether the trunk lines are getting a proper efficiency in their operation and I wondered if Mr. Brandeis was right about it.

Mr. Bushner: I don't know anything about their operations except what I can see. I know that a great deal of work I see
4410 being done by the Cotton Belt employés, the quality of the work is all right, but the quantity of it would not be satisfactory over on the Ouachita Valley Railroad at all.

Mr. Cowan: That is because there is not somebody there to see to it?

Mr. Bushner: Simply because there is no one interested.

Mr. Cowan: If the tap line railroad can be operated cheaper by the company owning it, and if the trunk lines could not operate them except at an undue burden, as put in Mr. Garwood's question, I would like to ask you if you happen to know what would have induced the Southern Pacific to buy the Lake Charles & Northern?

Mr. Bushner: Well, I am not probably sufficiently familiar——

Mr. Garwood: You do not think that is a tap line, do you, Judge?

Mr. Cowan: It was when you bought it, and I just wondered why you bought it, if the assumption in your question is true.

Mr. Garwood: That is a trunk line.

Mr. Bushner: I expect some railroads would like to buy that Arkansas & Louisiana, which was presumed to be a tap line.

Mr. Cowan: That has grown to be so large I presume they
4411 would.

Mr. Bushner: That is the trouble with this one, it was going to grow so big, and the opportunity was there, and they took the chance to absorb it. I am not familiar with the situation, it is just a long guess.

Mr. Garwood: Do you understand the railroad employés' theory of constructive mileage, that is an engineer, for instance, is to be paid for say 100 miles run, and paid on that basis, under his contract, and if his run may be 50 miles less than that, he nevertheless collects his wages on the basis of the 100 mile run?

Mr. Bushner: No, I do not understand that except in a rough way.

Mr. Garwood: I will give you an example. The distance from Houston to Galveston in Texas is, by the Galveston, Harrisburg & San Antonio, 56 miles only, yet the G. H. & S. A. pays its trainmen for a hundred mile run, notwithstanding it is but 56 miles. Now if that one single rule is of any general operation it must follow it would cost the trunk line more to operate a tap line or a short line railroad than it would these local railroad companies that are not subject to any such rules.

4412 Mr. Bushner: The units of all the tap lines being so short, take for instance ours, it is 28 miles, which is over the average length.

Mr. Armistead: I may have misunderstood the question which was put to you or the answer you gave to it. I understood Judge Cowan to ask you if it were not true that practically all the mills in Arkansas get divisions from the trunk lines.

Mr. Cowan: I meant of course those that had roads.

Mr. Bushner: I meant of course, in my opinion.

Mr. Armistead: Yes, and what was your answer.

Mr. Bushner: I told him all those with which I had acquaintance, that I was intimate with to know that feature of their business, were receiving divisions, and it was my opinion the other mills in the state were receiving them.

Mr. Armistead: You have not had access to or prepared or seen any statistics on this subject, have you?

Mr. Bushner: No.

Examiner Burchmore: Have you some special point you wish to bring out?

Mr. Armistead: I wish to correct the statement.

Examiner Burchmore: We all know what he means. He does not mean any sawmill is getting a division for sawing logs.

Mr. Armistead: No, I did not have that in mind, but the
4413 important extent of the business down there is done by non-tap line companies.

Mr. Bushner: The Judge describes the proposition, it was a sawmill that had a railroad in connection with it.

Mr. Cowan: If Mr. Armistead wants to bring out certain statistics I would like to have them brought out.

Examiner Burchmore: What is your point.

Mr. Armistead: He says he has never seen any such statistics. He said all the mills, meaning all the tap line mills, get divisions, practically. I want to show the number of companies which do not have tap lines which compete with tap line mills.

Mr. Bushner: That is the question I answered. I told you the mills that I was intimate enough to know their vitals did receive divisions.

Mr. Armistead: Through their indirect—

Mr. Bushner: Or their railways.

Mr. Armistead: Through the railways?

Mr. Bushner: Yes, sir, they did receive divisions, the mills I was intimate with. Now I presumed that other mills similarly situated in the state also received divisions. I think that was practically my answer.

Mr. Armistead: I do not care to pursue it any further. I
4414 see he does not know what I am after.

Examiner Burchmore: Any mill that did not have a tap line and did not get a division in the State of Arkansas, and we will say hauled its lumber by wagon, would be at some disadvantage, would it not?

Mr. Bushner: Now you get right back to the tap line and the

trunk line. Why is it those little fellows who haul the lumber in by wagon can make their lumber and sell it as cheap as the fellow who has the railroad?

Examiner Burchmore: Is it your understanding they can?

Mr. Bushner: Yes, sir, I know it, and they do do it.

Examiner Burchmore: What is the explanation.

Mr. Bushner: Usually they make a small quantity which can be peddled out in a small community. I had an illustration of it a few days before leaving home. A fellow who had a little bit of a mill at Locust Bayou wanted me to sell two or three carloads of lumber, and he wanted $10.00 for it, and I could not get $6.00, and I told him, and he says I can sell it right there for $10.00, and I says that is the place to sell it. They make it in small quantities and they go and squat on a small piece of timber, and they have the friendship of the community and get their business, and with the larger corporation everybody is its enemy.

4415 Mr. Armistead: For the smaller piece of timber they are not obliged to log it by railroad.

Mr. Bushner: No.

Mr. Armistead: And consequently the owners of those companies would not have to invest in railroads?

Mr. Bushner: No, they do not even invest in timber sometimes.

Mr. Armistead: And undertake the hazard of such an operation.

Mr. Bushner: No.

Examiner Burchmore: But take a sawmill that has a logging railroad which is not incorporated, and does not get any divisions, such a mill would be under some disadvantage.

Mr. Bushner: I do not know of any such. I think they are all incorporated, every short line in Arkansas.

Mr. Garwood: About what is the limit——

Mr. Bushner: I would like to know myself.

Mr. Garwood: Wait a minute. In the matter you have in mind I doubt if there is a limit, but what is the distance that a mill can be profitably operated by team?

Mr. Bushner: By team?

Mr. Garwood: Yes.

Mr. Bushner: I understand you mean how far can you haul logs without moving the mill?

4416 Mr. Armistead: No, without a railroad.

Mr. Garwood: Log it with teams.

Mr. Bushner: I understand you are hauling your logs by wagon to a given centre and milling them, and the question is how far you can go back for logs or before you had better move your mill. I have never operated that way, but from observation I have had of those men they will work out about two and a half miles, maybe three miles as a maximum, but about two and a half miles is the average maximum haul.

Examiner Burchmore: Suppose they move their mill back when they get back that far, how far can they haul the lumber from the mill to the railroad?

Mr. Bushner: I have had lumber hauled 10, 11 or 12 miles.

Examiner Burchmore: Does that lumber get into the Memphis market or St. Louis?

Mr. Bushner: Yes, it is usually a rough character of lumber and delivered to a planing mill; and that was my business at that time, and I ran the planing mill and dressed the lumber.

Mr. Armistead: The last question suggests one other. In case the mill has been constructed permanently with the plan to mill there and cut off all of a large acreage, it would not be economical to move that mill?

4417 Mr. Bushner: No.

Mr. Armistead: Is it not a fact that a great many of these mills, in fact most of them, are owned by companies which have as much as 20,000 to 100,000 acres of land, and that they cost from $75,000 to $500,000 to construct.

Mr. Bushner: Yes, the average cost, I think, that is expected by the average mill man is about $1.00 a thousand for his stumpage. If he has 200,000,000 or 300,000,000 feet of stumpage he puts a building up in such a way that his improvement alone will not cost him over $1.00 a thousand for the stumpage, or in the case of 200,000,000 feet, hopes to build a mill which will dispose of that for $200,000. That is the figure they usually work towards.

Mr. Armistead: The economy of this operation is not in moving a large mill back to the timber, but it is in getting the timber out by a railroad to the mill?

Mr. Bushner: What was the first part of the question?

Mr. Armistead: I say it is considered a more sensible part of the proceeding to haul the timber to the mill than the mill to the timber.

Mr. Bushner: Yes.

Mr. Coleman: Do you regard the haul from the woods down as an incident of transportation or manufacture?

4418 Mr. Bushner: It is an incident of transportation, taking it as a whole, that they are dual institutions, in the case of the Siamese twins.

Mr. Cowan: I think there have been some very important suggestions brought out a minute ago which I would like to inquire about. I do not think it is clear in the record as to the amount of investment which you say would be estimated in the construction of the plant to the ratio of the number of million feet of lumber you had in the stumpage. By the plant do you mean the mill and the railroad or just the mill?

Mr. Bushner: As I replied to this young gentleman here, I just answered it in a way, and I am taking the two together, the two corporations, and I have nothing to conceal in that line, the Freeman-Smith Company and the Ouachita Valley.

Mr. Cowan: You mean the sum of the investment?

Mr. Bushner: Yes.

Mr. Garwood: He misunderstands your question, if you will permit me. I understand his statement to be that the cost of the mill to profitably operate a large tract will be about $1.00 a thousand feet of the lumber in the tract. That statement had no reference to the cost of a mil-way, but was confined to the cost of the mill.

4419 Mr. Bushner: No, you are in error there.

Mr. Cowan: Let the witness explain.

Mr. Bushner: He is in error. Judge Cowan is correct.

Examiner Burchmore: We will pursue that no further. I think that is perfectly plain.

Mr. Coleman: The point is this, if the $1.00 investment includes the haul to the mill, the witness's answer that the transportation from the woods down to the mill is an incident of transportation is obviously incorrect.

Examiner Burchmore: Is that a matter of fact or interpretation?

Mr. Coleman: It does not matter what we call it, we want to bring out the facts.

Mr. Garwood: The reason I made that point was, I saw the address of the president of the American Lumberman the other day, which stated——

Mr. Bushner: Let me do a little explaining which will make this all clear. Take the average mill, take the Crossett Lumber Company, one of the biggest institutions we have. They built a mill and today they have a railroad investment which is large, but on the day of the construction of that mill the timber was right around the

4420 mill. They did not have to buy 40 or 50 miles of 45 pound steel, one mile was all they wanted, and that is the way that property worked out, and for the original investment required to handle that traffic I understand the Crossett Lumber Company's investment stood about $1.00 a thousand.

Examiner Burchmore: Including the original rail?

Mr. Bushner: Yes.

Examiner Burchmore: And it remained a dollar as they extended their forests?

Mr. Bushner: Yes, sir, it earned itself, and earned its way out.

Mr. Gaughan: In your statement you said that the Freeman-Smith Lumber Company paid to the railroad company $4.00 a car on the logs.

Mr. Bushner: Yes.

Mr. Gaughan: That as I understand it, was for the haul from out in the woods to Stark and not the haul on the main line of road?

Mr. Bushner: Well, no, not as I understand it. That $4.00 a car is for the haul of the log from the woods or Stark, rather, we will call that the originating point, and delivering it into the pond.

4421 Mr. Gaughan: Who unloads the logs?

Mr. Bushner: The Ouachita Valley Railway.

Mr. Gaughan: Where did the railway company pick up the car of logs?

Mr. Bushner: The car of logs is always in the possession of the railway company. There is a contract existing between the Ouachita Valley Railroad Company and the Freeman-Smith Lumber Company, and the spur tracks in the woods, while the iron is owned by the Freeman-Smith Lumber Company, the Ouachita Valley Railway Company obligates themselves to deliver here and there as needed the logs, and the logs are put in and loaded on the cars by the Freeman-Smith Lumber Company and are transported from that point

to the mill by engines and equipment of the Ouachita Valley Railroad Company for $4.00 a car.

Mr. Gaughan: That point, as I understand it, is not on the line of the railway company, is it?

Mr. Bushner: It is not.

Mr. Gaughan: It is on the spur track?

Mr. Bushner: It is on the spur track or adjacent to it.

Mr. Gaughan: The spur track is *conducted* by the Freeman-Smith Lumber Company itself, is it not?

Mr. Bushner: No, it is constructed by the Ouachita Valley
4422 Railway.

Examiner Burchmore: What spur track are you talking about?

Mr. Gaughan: That goes out into the timber.

Examiner Burchmore: Is that spur track still there?

Mr. Bushner: It is this movable track which is built and moved throughout the timber.

Examiner Burchmore: You are not logging down there?

Mr. Bushner: No.

Examiner Burchmore: But your track is still there?

Mr. Bushner: We have some iron over there.

Examiner Burchmore: I think that ought to be shown on this map, if it is there.

Mr. Bushner: Well, that is not incorporated.

Examiner Burchmore: I know it, but show it as unincorporated track.

Mr. Bushner: We have considerable more up in there (indicating).

Examiner Burchmore: Up to the unincorporated tracks there?

Mr. Bushner: I show none of that there.

Examiner Burchmore: Put that all in.

Mr. Bushner: All right.

Mr. Gaughan: You say the railroad company constructs those spur tracks?

4423 Mr. Bushner: Yes.

Mr. Gaughan: And it gets no other consideration for that except the $4.00?

Mr. Bushner: Not from the Freeman-Smith Lumber Company.

Mr. Gaughan: That is what I mean.

Mr. Bushner: No.

Mr. Gaughan: That is all the consideration it gets?

Mr. Bushner: Yes.

Mr. Coleman: But from its connecting line it gets its division of the through rate?

Mr. Bushner: Yes.

Mr. Coleman: So you have included in your investment $1.00 down to the mill——

Mr. Bushner: What is that dollar down to the mill? I have not said anything about that in this question.

Mr. Coleman: I guess it is plain enough.

Examiner Burchmore: You get $4.00 a car for moving the logs?

Mr. Bushner: Yes.

Examiner Burchmore: Is there any drawback to the lumber company when the lumber goes out?

Mr. Bushner: No, that goes strictly into the Ouachita Valley treasury.

4424 Examiner Burchmore: Then you get $4.00 over and above your division?

Mr. Bushner: Yes.

Mr. Walter: But the service you render brings the cars from the woods up on to your main line?

Mr. Bushner: Yes.

Mr. Walter: In other words, the $4.00 covers the extra service over and beyond the main line service?

Mr. Bushner: If we are confused I think we can straighten it out.

Examiner Burchmore: Can you file a copy of that contract?

Mr. Bushner: Yes.

Examiner Burchmore: I think that will answer. Why have you not incorporated those logging roads?

Mr. Bushner: Do you mean those spurs?

Examiner Burchmore: Yes.

Mr. Bushner: Well, they should not be incorporated: it is a movable track, it is just like a wagon road, you move through the woods, and you have little switches up here and you tear it out and abandon it.

Examiner Burchmore: But the railroad runs it and operates its trains over it?

Mr. Bushner: Yes, it builds them.

4425 Examiner Burchmore: Is it not a fact——

Mr. Bushner: Excuse me. They have down at the gravel pit where they take gravel for the Cotton Belt, acres and acres of ground, and they will run a *bank* up to that dirt and they will take that dirt down and move that track. Should those temporary tracks be included in the articles of incorporation of that railroad?

Examiner Burchmore: They always are, are they not?

Mr. Bushner: I do not know.

Examiner Burchmore: Don't they report them to the Interstate Commerce Commission?

Mr. Bushner: But they move it back to this bank and to that bank and have eaten out acres and acres, and should that line all be left and incorporated as a common carrier with due service?

Examiner Burchmore: I ask you whether they should.

Mr. Bushner: I have to ask the question back, because I do not see why they should be.

Examiner Burchmore: Is there any reason why they should not be?

Mr. Bushner: Yes, the same reason as with the Cotton Belt.

Examiner Burchmore: What is that reason?

Mr. Bushner: Simply because it is put there for just an

4426 immediate picking up of a load; there is tonnage which is going to be delivered at that point, and it is a convenient

place to put it, and we put the spur in there and get it out and that is all we ever expect to be delivered at that point.

Examiner Burchmore: Is it not a fact that the result of your failure to incorporate your logging road is that you have a monopoly up there in the woods?

Mr. Bushner: No, you are mistaken in that. It is not in our minds at all.

Examiner Burchmore: That is what I ask you.

Mr. Bushner: That is not the reason, if that is what you are leading to. The fact of the matter is under our contract as I understand it, although there is some confusion about it, if a man would offer me a car of logs up in the woods I would handle it.

Mr. Cowan: I would like to ask some of the good Arkansas lawyers here if there is anything in the Act with respect to railroads which would prevent any railroad from incorporating with the right to put down such spurs as it may need for the purpose of getting business for the road, and then abandoning these spurs as it pleases.

Mr. Bushner: How about the side track contracts that the
4427 Cotton Belt has all throughout the State of Arkansas? Would not that cover it? They put those in. Take our side track put in by the Cotton Belt at Millville, they can remove it on 30 days' notice.

Mr. Armistead: The answer to that question is that a railway in Arkansas cannot exercise the power of eminent domain for the purpose of building a switch or a spur. It can only exercise it for the purpose of constructing that part of its line which is devoted to a public use, in the nature of a common carrier.

Mr. Cowan: Does not that include all necessary turnouts, switches and so forth, in the ordinary language of acts of Legislatures?

Mr. Armistead: Sidings, turnouts and terminals, but it does not include spurs or laterals which are to be devoted to private use.

Examiner Burchmore: Your answer, as I take it, refers simply to the matter of eminent domain, but is there anything in the State Law which prevents a railroad from putting down temporary tracks where the owners of that property freely deed or lease it to the railroad?

Mr. Armistead: No.

4428 Mr. Cowan: The fact of a cottonseed oil mill, which may be burned, is an example.

Mr. Armistead: There is nothing to prevent it.

(Witness excused.)

4429 *El Dorado & Wesson Railway Company.*

C. V. EDGAR, was called as a witness, and having been duly sworn, testified as follows:

Examiner Burchmore: You are President of the El Dorado & Wesson Railway Company?

Mr. Edgar: Yes, sir.

Examiner Burchmore: You are also President of the Edgar Lumber Company?

Mr. Edgar: Yes, sir.

Examiner Burchmore: The El Dorado & Wesson Railway Company connects with the Chicago, Rock Island & Pacific at El Dorado, Arkansas?

Mr. Edgar: It does.

Examiner Burchmore: And extends from that point in a southwesterly direction to the town of Wesson?

Mr. Edgar: It does.

Examiner Burchmore: That is its main line?

Mr. Edgar: That is the entire extent of the road.

Examiner Burchmore: Then at Wesson are there any other railroads connecting with its line?

Mr. Edgar: It connects with the logging road of the Edgar
4430 Lumber Company at Wesson.

Examiner Burchmore: By what name is that logging road known?

Mr. Edgar: The Cornie Valley Railroad. It is not incorporated.

Examiner Burchmore: What is the mileage between El Dorado and Wesson?

Mr. Edgar: 10.19 miles.

Examiner Burchmore: That is the total mileage of this railroad?

Mr. Edgar: It is.

Examiner Burchmore: For what distance does the Cornie Valley Railroad extend out of Wesson?

Mr. Edgar: Some 22 to 25 miles.

Examiner Burchmore: That is on its main line or main tracks?

Mr. Edgar: No, not over 12 to 15 miles, of what you might call main line. That has been moved in different directions, they have some 22 miles of steel, if I remember correctly, part of it used in temporary tracks, and part of it in what would be known as main line logging road.

Examiner Burchmore: What is the distance from Wesson
4431 to the village or cross road known as Cornie?

Mr. Edgar: Known as Cornie?

Examiner Burchmore: Yes, which is indicated on this tracing.

Mr. Edgar: I would have to refer to the map. That is sectional.

Examiner Burchmore: About ten miles?

Mr. Edgar: About ten miles, or eleven miles.

Examiner Burchmore: What is Cornie, a settlement?

Mr. Edgar: A small country post office there, country settlement. If your Honor pleases, it was my intention to testify in regard to the matter of the construction of this road, the matter leading up to it and its relationship to the Edgar Lumber Company and for detailed information I would ask Mr. Niehuss to testify, as he is more familiar with that.

Examiner Burchmore: Are you prepared to give your testimony in a narrative form without questioning?

Mr. Edgar: Yes, I think so.

Examiner Burchmore: Suppose you do that.

Mr. Edgar: In the matter of the stock ownership of the Edgar Lumber Company and the El Dorado & Wesson Railway Company, so far as the principal stockholders are concerned, the inter-
4432 ests are identical. Further, in regard to that, at the time of the construction of this road, each stockholder of the Edgar Lumber Company was given the opportunity of subscribing for a proportionate amount of stock in the railroad. A large part of them, especially the larger stockholders, what might be called the principals of the company, availed themselves of this, and others of the smaller stockholders did not.

This mill was located on a little branch spur which was apparently originally a logging spur of the old Arkansas Southern Railway Company. Some of the men with whom I am associated and who now form the Edgar Lumber Company, became interested in the way of purchase of some stock in what was then the H. C. McDaniel Lumber Company of Wesson, who owned this plant and some of the timber. It was found that the facilities for handling the tonnage from that territory, which was some five miles away from the Arkansas Southern tracks, were inadequate and unsafe. The operations of the company in which we took an interest in there, appeared not to be successful, they were not making any money under their present form of operation. Later some of the other stockholders of this company were bought out, and still later the Edgar Lumber Company was organized, and quite a con-
4433 siderable tract of adjoining timber was purchased.

Examiner Burchmore: When was the Edgar Lumber Company organized, about what year?

Mr. Gaughan: 1904.

Mr. Edgar: 1904, was it?

Mr. Gaughan: I think so.

Mr. Edgar: About seven or eight years ago. Later the Edgar Lumber Company bought the H. C. McDaniel Lumber Company's holdings and lumber property as a total. The railroad inlet to the country being so inadequate and there appearing to be a railroad proposition in there, the people with whom I was associated with myself conceived the idea of building a railroad from Wesson to El Dorado, the county seat of Union County. We put an engineer in the field and got regular engineer's estimates on the work with a profile, a copy of which I should like to place before you. We ascertained the expense of putting this railroad through there. We had a conference with the Iron Mountain people, who have a road into El Dorado, and later with the Rock Island people, who were also just preparing to build in there at that time, and who had taken over the Arkansas Southern Railway, running south from El Do-
rado. Our former connection having been with this Arkan-
4434 sas Southern, or what is known as the Rock Island at a place called Cornie, 13 miles south of El Dorado, they seemed desirous of retaining that tonnage, and we entered into a contract with the Rock Island Road, a copy of which contract is on file with the Commission, arranging with them a contract for delivering them the entire tonnage of the road for a certain period, and arranging

the divisions of through rates. After all this had been done we constructed the road and have since operated it as a common carrier.

Examiner Burchmore: When did you construct the road?

Mr. Edgar: The contract was made about four years ago, and it was constructed during that year. I think our contract was entered into the 1st or 2nd of February, and the road was constructed during that year.

Examiner Burchmore: How did you get your lumber to market before that time, originally?

Mr. Edgar: There was a logging spur of about four and a half or five miles, running from Cornie, a point 13 miles below El Dorado, on the Arkansas Southern, out to Wesson. This spur belonged to the Arkansas Southern Railway Company. When we went into the lumber company down there, we found that the lumber company was hauling or delivering their lumber, getting their empty cars at Cornie and delivering the loads back there to that point. Cor-
4435 nie is not shown on that map, it has been left off.

Examiner Burchmore: The Cornie to which you are now referring is between Junction City and Upland on the line of the present Rock Island?

Mr. Edgar: Yes, sir.

Examiner Burchmore: The spur track ran from Wesson to that point, and it has since been taken up?

Mr. Edgar: Yes, sir, since the construction of the El Dorado & Wesson.

Examiner Burchmore: What was the purpose of building the El Dorado & Wesson Railroad?

Mr. Edgar: To give railroad facilities to that tereritory in there.

Examiner Burchmore: Was that the sole purpose of this road?

Mr. Edgar: Including the facilities that it would give to the lumber in which we were interested.

Examiner Burchmore: Well, that lumber company already had facilities for reaching the market through its private line out to Cornie.

Mr. Edgar: I might repeat a conversation that might throw some light on that. When we had our conference in Chicago with
4436 the Rock Island people, the interview was opened by a statement by one of the officials that he understood the object of the interview was our contemplated purchase of the Cornie Branch or this spur that ran out to Wesson from Cornie. I was obliged to interrupt him and say that was not contemplated at all, and he wanted to know why, and I told him because they had nothing to sell; it seemed to have been a very temporary logging spur that was put in there. It was built through a bottom with no dump whatever, and every time it rained it washed out. It was built up hill and down dale and was no railroad at all for the handling of any heavy tonnage or anything but a very temporary logging spur.

Examiner Burchmore: Who owned that spur?

Mr. Edgar: It belonged to the Arkansas Southern Railway Company. I suppose it was built probably at the time that they were a logging road or to bring logs to their road. The rail on that ran

from 20 to 30 pounds, and from 6 inches to 30 feet long. It had become an impossible proposition.

Examiner Burchmore: What was the length of the rail?

Mr. Edgar: From 6 inches to 30 feet. Some of the rails were spiked at the ends, and others had angle bars.

Examiner Burchmore: I understood you to say that the El
4437 Dorado & Wesson was built to afford this country an outlet. What is the character of the country?

Mr. Edgar: That is an old country in there; it seems to have been settled away along before the war times. There are old cemeteries there. I noticed the cemetery right in El Dorado, with burying dates of people who died in 1842. It is the scene of the old stage road through that country before the war. There was an old farming community, evidently years and years ago. I met a man out at Three Creeks just out beyond Wesson there a few weeks ago in an old store on one of these stage roads, and I asked him how long it had been settled, and he told me he came there in 1847 and there was a store there then.

Examiner Burchmore: You spoke of Three Creeks. What other interests are there at Wesson and west thereof?

Mr. Edgar: I spoke of El Dorado, which is the county seat of Union County——

Examiner Burchmore: Yes, but that is on the Rock Island, and needed no additional facilities so far as reaching the market is concerned.

Mr. Edgar: I simply used that as an illustration as to the old settlement of the country there.

4438 Examiner Burchmore: What was there between Wesson and El Dorado, or at Wesson, that would induce a railroad to build from El Dorado to Wesson?

Mr. Edgar: The principal item was the operation, present and contemplated, of the Edgar Lumber Company.

Examiner Burchmore: What is the character of the country west of Wesson, that is along through the territory traversed by the Cornie Valley rails?

Mr. Edgar: It is similar to what it is between El Dorado and Wesson.

Examiner Burchmore: Three Creeks, is that very much of a village?

Mr. Edgar: I believe it is something like 100 people there at the old place where I met the man in the store who went there in 1847.

Examiner Burchmore: Do they have any merchandise or farm produce to ship?

Mr. Edgar: That is not on the line of the El Dorado & Wesson.

Examiner Burchmore: How do they get to and from Little Rock or Memphis, or wherever they want to go with their stuff?

Mr. Edgar: By wagon to Junction City or El Dorado.

4439 Examiner Burchmore: Do they not need a railroad just as badly as Wesson needed one?

Mr. Edgar: Yes, sir. I think they need one through there.

Examiner Burchmore: Well, are they going to get one?

Mr. Edgar: That depends somewhat on what the Interstate Commerce Commission do with the El Dorado & Wesson Railway proposition. As a matter of fact, however, there is at the present time directly through the town of Three Creeks grading going on which it is the intention of the El Dorado & Wesson Company to take over as an extension of their line.

Examiner Burchmore: Are they going to take over the Cornie Valley, is that in contemplation?

Mr. Edgar: We contemplate taking over some five miles of that after it is reconstructed.

Examiner Burchmore: How long has that five miles of track of the Cornie Valley, to which you have just referred, been in place?

Mr. Edgar: That was there when we went there originally; it belonged to the old original company in there, and was the first part of their logging railroad; I suppose it has been there from 10 to 15 years.

Examiner Burchmore: Why did not the El Dorado &
4440 Wesson buy those rails at the time they bought the rest of the railroad?

Mr. Edgar: The El Dorado & Wesson did not buy; they built the road from El Dorado to Wesson.

Examiner Burchmore: I should say at the time they built from El Dorado to Wesson, why they did not buy or lease the Cornie Valley rails for five miles west thereof through this rich agricultural country?

Mr. Edgar: It is not in its present condition suitable. As an officer of the company I would not wish to recommend the operation of that five miles of road, especially that particular five miles, as a common carrier and take the responsibilities of doing so, on account of its construction. In explanation I might say that while it has since that time been somewhat improved, there was one 8 per cent grade on that five miles of track, and we did not wish to operate it as a common carrier.

Examiner Burchmore: Is Three Creeks as big a city as Wesson?

Mr. Edgar: No, I suppose there are some 800 people in Wesson as against probably 100 people out there.

Examiner Burchmore: I was just inquiring, it seems in 1904 or
1905 your interest built a railroad from Wesson to El Dorado
4441 primarily, as you have stated, to open up the country?

Mr. Edgar: Yes.

Examiner Burchmore: And give that country, an old country an outlet to market, and there was at that time a railroad of some character for five or six or ten miles west of Wesson through an equally fertile and prosperous country which you did not take over in any way; and I wanted to see why you did not open that country up. It would be a feeder for your other line apparently.

Mr. Edgar: Well, your Honor, it is a part of the development of our original railroad idea. We felt that there was a railroad proposition in there. The El Dorado & Wesson was immediately necessary to the starting of that proposition, and was all we could afford to build at that time. We are now going ahead with the enlarged

proposition and we are figuring to take over those five miles of reconstructed logging railway, and to construct in a southeasterly direction there crossing the State Line into Louisiana with a prospect of going to Homer and possibly to Minden, Louisiana. I wouldn't say in regard to this proposed extension that the engineer's work has been done on this; we have the engineer's profiles and estimates of cost.

4442 Examiner Burchmore: How far is your road from the nearest part of the Griffen, Magnolia & Western?

Mr. Edgar: I do not know.

Examiner Burchmore: What is the capitalization of this road?

Mr. Edgar: $50,000.

Examiner Burchmore: All outstanding?

Mr. Edgar: Yes.

Examiner Burchmore: Was that issued for cash?

Mr. Edgar: Yes, sir, in this way: If you will refer to the contract with the Rock Island people, you will find the entire transaction outlined there. We borrowed from the Rock Island Railway with certain exceptions, the money with which to build the El Dorado & Wesson Railway.

Examiner Burchmore: That was in advance of the construction?

Mr. Edgar: Yes, sir; well, we billed against them monthly for the expenditures of the previous month, with the exception that we were to pay the preliminary engineering work and buy our own right of way and certain other things provided for in the contract.

Examiner Burchmore: You were to furnish your own cross ties?

4443 Mr. Edgar: I think they were paid for by the Rock Island. I would not say positively without referring to the contract.

Examiner Burchmore: You say the contract provided—of course the contract speaks for itself and it is on file with the Commission.

Mr. Edgar: Yes.

Examiner Burchmore: But we want this record to contain some reference to it. You say the Rock Island agreed to loan you the money to construct the railroad?

Mr. Edgar: They did.

Examiner Burchmore: Up to a certain maximum sum?

Mr. Edgar: They did.

Examiner Burchmore: $100,000 was the maximum, and they did actually loan you the money?

Mr. Edgar: They did.

Examiner Burchmore: How was that loan to be repaid?

Mr. Edgar: It was to be repaid, principal and interest, in the divisions accruing to the road under the contract, settled on monthly balances.

Examiner Burchmore: And that repayment was to be made out of the divisions during the first five years of operation?

Mr. Edgar: Four years, with a possible five year provision, if it was not paid off in that time.

4444 Examiner Burchmore: Then any balance remaining was to be paid by the El Dorado & Wesson to the Rock Island on demand?

Mr. Edgar: Yes, sir; on demand.

Examiner Burchmore: Was there any balance at the end of five years?

Mr. Edgar: It is just four years now, and there is still a balance that has not been asked for.

Examiner Burchmore: Then you have not paid for the road yet?

Mr. Edgar: Not entirely.

Examiner Burchmore: That contract also fixed the amount of divisions which would be accorded to you by the Rock Island as I understand.

Mr. Edgar: It did.

Examiner Burchmore: What was that amount?

Mr. Edgar: Four and five cents were the principal amounts; that has been varied, in accordance with the provisions in the contract where some rates were lowered.

Examiner Burchmore: Five cents on lumber to points reached by the Rock Island and Frisco, and four cents to other points outside the State of Arkansas?

Mr. Edgar: Yes.

Examiner Burchmore: To whom was the capital stock of
4445 the road issued?

Mr. Edgar: You will notice the contract provides that the El Dorado & Wesson were to pay for certain things themselves, engineering, right of way, and so forth. It also purchased its own equipment including cars, engine, railroad scales and other necessary things. The Edgar Lumber Company assisted the railroad company to the extent of taking care of these amounts during the construction of the road, and at the time of the completion of the road and the payment for the rolling stock this amount which had been put in and charged by the Edgar Lumber Company to the El Dorado & Wesson Railway Company amounted to $50,000 of actual cash which had been paid out for the railroad company by the lumber company. The lumber company declared a cash dividend of 20 per cent on its capital stock which would amount to $50,000. At this time the privilege was given all stockholders of the Edgar Lumber Company to subscribe for a proportionate amount of stock in the El Dorado & Wesson Railway Company. Most of them took advantage of this, and gave to the El Dorado & Wesson Railway Company a sight draft on the Edgar Lumber Company for the amount of money that was due them from this cash dividend. Those
who did not wish to invest in the railway company, and
4446 there were a number, principally among the smaller stockholders, received their 20 per cent cash dividend in cash from the Edgar Lumber Company.

Examiner Burchmore: Do you know how many such stockholders there were?

Mr. Edgar: I understand in round numbers that there are some fifty stockholders in the Edgar Lumber Company, and some thirty odd in the railroad company; that is just in a general way.

Examiner Burchmore: That is the total number of stockholders?

Mr. Edgar: The total number of stockholders, yes.

Examiner Burchmore: How many stockholders in the lumber company did not elect to take railroad stock, in shares, I mean, how many such stockholders, measured by their shares?

Mr. Edgar: Measured by their shares?

Examiner Burchmore: Yes.

Mr. Edgar: It did not amount to anything; it was not more than probably a couple of thousand dollars of cash that the Edgar Lumber Company was obliged to pay out on account of this transaction.

As I say, they were mostly the small holders. In turn the
4447 sight drafts were accepted by the Edgar Lumber Company from the railroad company in payment of the $50,000 account which the railroad company owed to the lumber company.

Examiner Burchmore: Did the Edgar Lumber Company take those shares which were refused by its stockholders?

Mr. Edgar: No, sir, they were divided up among some of the other stockholders. For instance, I took $500 more than my share, and some few others did and paid the cash to the railroad company for the extra shares.

Examiner Burchmore: I presume that the Rock Island Road holds notes covering the indebtedness?

Mr. Edgar: They have never asked for any other evidence than the contract, although the contract provides we were to furnish such bonds or notes as they might request; but it has been carried entirely as an open account and has never been closed up.

Examiner Burchmore: If the Rock Island should now request you for notes or bonds to cover that indebtedness under the contract as I read it, the Edgar Lumber Company would join in those notes as an endorser or co-maker.

Mr. Edgar: I do not remember as to that point. The Edgar Lumber Company would be willing to do so; there is no legal
4448 reason why they should not.

Examiner Burchmore: Do you recollect whether in that contract the Edgar Lumber Company, which was a party to it, agreed to give the Rock Island its shipments during the ensuing years?

Mr. Edgar: I suppose that the reading of the contract is that they would give the El Dorado & Wesson Railway Company tonnage at Wesson.

Examiner Burchmore: As a matter of fact I think the contract provides that for a period of four years the Edgar Lumber Company shall ship its entire product over the El Dorado & Wesson in connection with the Rock Island.

Mr. Edgar: It does.

Examiner Burchmore: And at the end of four years not less than 50 per cent of its traffic over the El Dorado & Wesson in connection with the Rock Island?

Mr. Edgar: That was the agreement.

Examiner Burchmore: Now at the present time the mills of the Edgar Lumber Company are located at Wesson?

Mr. Edgar: They are.

Examiner Burchmore: They have no mills elsewhere?

Mr. Edgar: They have not.

Examiner Burchmore: That is about 10 miles from the
4449 Rock Island?

Mr. Edgar: It is.

Examiner Burchmore: How many locomotives has this railroad?

Mr. Edgar: One.

Examiner Burchmore: One passenger car?

Mr. Edgar: Correct.

Examiner Burchmore: How many freight cars?

Mr. Edgar: I think five. Mr. Niehuss can give you that detailed information. There are five boxes and three flats, is my recollection.

Examiner Burchmore: Shall we defer any question with respect to the rates and divisions until Mr. Niehuss comes?

Mr. Edgar: He is more familiar with those questions.

Examiner Burchmore: And also the questions as to the general operation of the road?

Mr. Edgar: If you please.

Examiner Burchmore: And if necessary we will recall you again to the stand on anything he cannot advise us about.

Mr. Edgar: Yes.

Examiner Burchmore: Have you any questions, Mr. Gaughan?

Mr. Gaughan: What rate of interest did the El Dorado & Wesson pay to the Rock Island for the loan of this money?

4450 Mr. Edgar: Five per cent.

Mr. Gaughan: Was there any special reason why you should have borrowed the money from the Rock Island in preference to any other concern?

Mr. Edgar: Except as a matter of convenience, as they were interested in the proposition, and an opportunity to make a loan. We could have borrowed it elsewhere.

Mr. Gaughan: Do you remember or do you know how the spur track that extended from the Arkansas Southern at Cornie Junction to Wesson was operated during the life of the H. C. McDaniel Lumber Company?

Mr. Edgar: It was not operated at all except as used by the lumber company for taking the cars to Wesson and returning them, so far as I know; the railroad company did not operate it.

Mr. Gaughan: The railroad company, as a matter of fact, never did operate that road?

Mr. Edgar: Not since my knowledge of it.

Mr. Gaughan: It really was not in condition to be operated by anybody?

Mr. Edgar: Not at all; it was absolutely an impossible proposition, and an unsafe proposition.

4451 Mr. Gaughan: So it was not a practical proposition to remove this mill, was it?

Mr. Edgar: Not at all.

Mr. Gaughan: What do you know about the population of El Dorado?

Mr. Edgar: I believe at the present time El Dorado has something

like 7,000 people. It has grown very materially in the last three or four years. It used to be, I suppose, more like 4,000 three or four years ago.

Mr. Gaughan: The advantage in having the connection between Wesson and some standard line of railroad at El Dorado in preference to Cornie Junction was the additional business that the point would furnish, was it not?

Mr. Edgar: It was a practical point into which to build a railroad, a practical terminus and connection for a line of railroad. The Iron Mountain also being there, whereas Cornie was nowheres except an imaginary point, just simply a junction of the tracks at a frog pond.

Mr. Gaughan: El Dorado is the county seat of the county?

Mr. Edgar: El Dorado is the county seat of the county.

Mr. Gaughan: All your business at the county seat and other peoples' business in that community could be reached by this
4452 railroad?

Mr. Edgar: Yes, sir, and also the mail facilities were very materially improved for that territory down there when this road was put into operation and the contract taken for mail.

Mr. Gaughan: Does the El Dorado & Wesson carry the mail?

Mr. Edgar: They do.

Mr. Gaughan: Do you know how many post offices are served by distribution of mail from Wesson?

Mr. Edgar: I understand five.

Mr. Gaughan: Prior to the construction of that road what were the mail facilities at Wesson and that community?

Mr. Edgar: By wagon from El Dorado.

Mr. Gaughan: Have you a telegraph station at Wesson?

Mr. Edgar: We have not.

Mr. Gaughan: Telephone?

Mr. Edgar: Telephone.

Examiner Burchmore: That post office we were referring to near the Cornie Valley Railway, were your proposed extension, where they had that very old cemetery; how do they get their mail?

Mr. Edgar: That is distributed from the Wesson post
4453 office. We have a contract for mail from El Dorado, the county seat, to Wesson, and the Wesson post office then becomes a distributing post office for the five or six country post offices out in these old settlements where the small settlements are.

Examiner Burchmore: The Cornie Valley does not handle any mail?

Mr. Edgar: No. In case of the extension of the incorporated road and the operation of it, to Three Creeks, I would suppose the Three Creeks post office would then become the distributing office for those post offices which are near it and carry it that much nearer.

Mr. Gaughan: That is all we care to ask this witness. We will reserve the other questions for Mr. Niehuss.

Examiner Burchmore: Judge Cowan, all questions in regard to rates and operations, will be reserved for the other witness.

Mr. Cowan: You spoke of one of the difficulties of operating this piece of road which I probably cannot describe, was a three per cent grade, or an eight per cent, was it?

Mr. Edgar: Eight per cent.

Mr. Cowan: And you said that that was prohibitive of operating it as a common carrier as a practical thing. Had that road
4454 theretofore been used for the purpose of hauling logs?

Mr. Edgar: Yes, sir.

Mr. Cowan: I wonder why it would not be as burdensome in the case of hauling logs as anything else with an eight per cent grade?

Mr. Edgar: That grade has been in part corrected since that time even for logging purposes.

Mr. Cowan: The point I mean to draw out is that it is just as necessary to have a substantially built road with proper grades for hauling trains of logs as it is anything else in economical operation.

Mr. Edgar: I would rather take chances on logs than human lives.

Mr. Cowan: Yes, but for economical operation, for mere business reasons.

Mr. Edgar: Oh, indeed, yes.

Mr. Cowan: That is recognized by saw mill men everywhere, is it not?

(No reply.)

Mr. Cowan: If you have a considerable distance to haul your logs, you used a substantially built track to operate over, whether you get divisions or not.

Mr. Edgar: Yes, if the track is to be in there for any
4455 definite length of time. To just take out a few cars you might go up over a hill.

Mr. Cowan: What they call the main line?

Mr. Edgar: Yes, sir.

Mr. Cowan: For example, your Cornie Valley Railroad leading west from Wesson, you haul logs on that, I believe?

Mr. Edgar: Yes, sir.

Mr. Cowan: How much of that is of the main line and of good construction, all of it?

Mr. Edgar: No, from 10 to 12 miles might be called main line logging road.

Mr. Cowan: Is that substantially the same character of road as between Wesson and El Dorado?

Mr. Edgar: Oh, no, indeed.

Mr. Cowan: If you extend it on as you contemplate then you will make that a similar road?

Mr. Edgar: Only such part of it as we use, and then there will be some change of location in the five miles that we will use.

Mr. Cowan: In regard to the stock subscription and loan of money, let me see if I understand correctly. The Rock Island loaned $100,000 to the railroad company, did it?

4456 Mr. Edgar: Yes, sir.

Mr. Cowan: And that is carried in the open account now?

Mr Edgar: Yes, sir.

Mr. Cowan: There was $50,000 in addition to that which was acquired for purposes of construction and otherwise which the lumber company advanced?

Mr. Edgar: Yes, sir.

Mr. Cowan: That was paid back to the lumber company by declaring a dividend amounting to $50,000?

Mr. Edgar: Yes, sir.

Mr. Cowan: And thereupon the stockholders receiving the dividend subscribed to the capital stock of the railroad company?

Mr. Edgar: Yes, sir.

Mr. Cowan: And paid the money for it?

Mr. Edgar: Money or sight draft, its equivalent.

Mr. Cowan: And the railroad company paid it back to the lumber company?

Mr. Edgar: Yes, sir.

Mr. Cowan: So that the lumber company's debt was discharged and it became a money investment by the stockholders in the stock of the railroad company in that way?

Mr. Edgar: It did, and that was the intention.

4457 Mr. Cowan: And that is the total amount of stock outstanding?

Mr. Edgar: It is.

Mr. Cowan: And the indebtedness of the road is $100,000 less what has been paid upon it?

Mr. Edgar: Less what has been paid, and in the matter of bookkeeping, as the bills payable were reduced, it was passed to surplus account.

Mr. Cowan: Was there any distinction drawn between divisions on lumber traffic which was to be applied to the discharge of interest and principal of the debt of the Rock Island and traffic other than that lumber traffic?

Mr. Edgar: No, if I understand the question correctly, there is no difference made in favor of the lumber company whatever; the same rates apply to everyone.

Mr. Cowan: What I mean is this, you discharge that indebtedness by the divisions of the Rock Island which were due on traffic you handed to them?

Mr. Edgar: Yes, sir.

Mr. Cowan: And that was independent, whether it was lumber traffic or any other traffic?

Mr. Edgar: Any traffic.

4458 Mr. Cowan: Is it to be paid except by divisions of rates?

Mr. Edgar: The contract provides if it is not paid by the expiration of four years, which are just up now, the Rock Island Company has the right to demand the balance due them in cash.

Mr. Cowan: If the divisions on lumber were to be cut off, I judge from the report of your earnings it will be necessary then for the railroad company, having no other asset than the railroad, to either go into bankruptcy or sell out to the Rock Island or somebody else has got to put up the money.

Mr. Edgar: No.

Mr. Cowan: Who would that be? Suppose the Rock Island should demand today the payment of that money, the railroad has not got it?

Mr. Edgar: The railroad company would borrow the money and pay it to the Rock Island Company.

Mr. Cowan: It would involve raising whatever balance is due by someone?

Mr. Edgar: Yes, if the Rock Island demanded it, and I suppose they would if there was no other way of getting it.

Mr. Cowan: What amount of interest is charged on this open account?

4459 Mr. Edgar: Five per cent.

Mr. Cowan: About how much has been paid on the principal and interest, and how much remains?

Mr. Edgar: There was something like $112,000; it overran the amount of the contract, and there still remains unpaid somewhere between $40,000 and $50,000. I would have to refer to the figures to see.

Mr. Cowan: You spoke of the settlement of the country and divisions on this line of railroad. If you did not get divisions from the lumber traffic, would there be any other traffic which would support and keep up this railroad?

Mr. Edgar: Our statements show that the road has now become self sustaining as to operating expenses and upkeep, independent of the divisions received on lumber tonnage.

Mr. Cowan: That is all.

Mr. Garwood: Do you know what wages you pay your engineers, firemen and brakemen?

Mr. Edgar: Mr. Niehuss can give you that information. I haven't it.

Mr. Garwood: What lumber interest owned the Arkansas Southern?

Mr. Edgar: I cannot say; that was before my day down in there.

4460 Mr. Garwood: Was it the Beardsley interest?

Mr. Edgar: No, that is farther down from there.

Mr. Garwood: That is a road which runs from up in Arkansas down in Louisiana and crosses the Vicksburg, Shreveport & Pacific?

Mr. Edgar: At Ruston, and is now a part of the Rock Island System.

Mr. Garwood: But it was constructed and owned originally by lumber interests?

Mr. Edgar: I so understand.

Mr. Garwood: It has been suggested that it was the Buchanan interests, which also own the Louisiana & Arkansas, that constructed it. Was that so?

Mr. Edgar: I think not. I am not positive. I think a man by the name of Browne at Camden, and a man named Cargyle and some of those interests; I am not positive. Perhaps Mr. Niehuss

can give you some more information. That is early history with which I am not familiar.

Mr. Coleman: Do you expect to be able to pay the Rock Island the remaining unpaid loan when it becomes due?

Mr Edgar: Oh, yes, indeed. We never would have constructed it if we had not seen our way of paying it.

Mr. Coleman: When does it become due?

4461 Mr. Edgar: The 1st of February, as I recollect, that is they have a right to call on it.

Mr. Coleman: Of this year?

Mr. Edgar: Yes, sir.

Mr. Coleman: And you will be able to pay it?

Mr. Edgar: We can by going out and borrowing it. We have credit sufficient to do so if they call for it.

Mr. Coleman: After it is paid up, will you still get a division from the Rock Island?

Mr. Edgar: That is the expectation, yes, sir.

Mr. Coleman: So is not the practical effect of that deal that the Rock Island built a railroad which they allow to be paid for out of freight earnings?

Mr. Edgar: They participated in the building of it to a large extent.

Mr. Coleman: Well, they loaned the money which was to be paid back out of freight earnings on lumber traffic?

Mr. Edgar: Yes, sir.

Mr. Coleman: And what will be done after four years of that traffic——

Examiner Burchmore: It seems to me that is argumentative.

Mr. Coleman: On the 1st of February the railroad company will own this railroad and you will still be getting divisions

4462 from the Rock Island?

Mr. Edgar: We own it now with the exception of this open account against us.

Mr. Coleman: That is all.

(Witness excused.)

Whereupon, at 12:45 P. M., a recess was taken until 2:00 P. M.

4463 After Recess.

2:00 P. M.

C. W. NIEHUSS, was called as a witness, and having been duly sworn, testified as follows:

Examiner Burchmore: You are the Treasurer and Superintendent of the El Dorado & Wesson Railway?

Mr. Niehuss: Yes, sir.

Examiner Burchmore: And also Secretary and General Manager of the Edgar Lumber Company?

Mr. Niehuss: Yes, sir.

Examiner Burchmore: Are you connected with any other lumber company?

Mr. Niehuss: No, sir.

Examiner Burchmore: How long have you been an officer of this railroad?

Mr. Niehuss: Since its incorporation.

Examiner Burchmore: What were the purposes of the incorporation and construction of this line of railway?

Mr. Niehuss: The purposes have already been stated, I think, by Mr. Edgar, and of course one of the purposes was to have better facilities for the output or product of the Edgar Lumber Company; and the other purposes were to build a railroad for the development of that territory.

4464 Examiner Burchmore: The territory east of and including Wesson?

Mr. Niehuss: West and including Wesson, west and southwest of Wesson.

Examiner Burchmore: This road does not run west and southwest of Wesson?

Mr. Niehuss: No, it only runs to Wesson, but the intention has been all along and was at the beginning that this road would not stop at Wesson, but at some time it would be extended beyond Wesson.

Examiner Burchmore: What was the cost of construction of the El Dorado & Wesson Railway per mile?

Mr. Niehuss: The cost of construction was about $14,500 per mile.

Examiner Burchmore: And that was paid for, or financed by the Rock Island Railroad?

Mr. Niehuss: As was stated this forenoon.

Examiner Burchmore: What did the Cornie Valley Railroad cost per mile of road to build?

Mr. Niehuss: I am unable to say, because part of that was constructed when I went there, and on account of the road not being incorporated but belonging to the lumber company, we

4465 did not keep any accurate records of the cost of construction. I might state that the cost of the El Dorado & Wesson does not include equipment.

Examiner Burchmore: The equipment was paid for by the Edgar Lumber Company originally, and they were reimbursed by the railroad company through the sale of stock, as I understand it?

Mr. Niehuss: Yes, sir.

Examiner Burchmore: The Rock Island Railroad only met the expense of construction of the road itself?

Mr. Niehuss: Yes, sir.

Examiner Burchmore: Or part of that cost?

Mr. Niehuss: Yes, sir.

Examiner Burchmore: What was the total sum advanced by the Rock Island?

Mr. Niehuss: I do not have the exact figures, but I believe Mr. Edgar stated $112,000 or $113,000; my recollection was a little bit more than that. I do not remember exactly; it was between $110,000 and $120,000 as I remember it.

Examiner Burchmore: Mr. Edgar testified, as I recall it, that this railroad has the locomotive and some nine or ten freight cars and passenger and combination cars.

Mr. Niehuss: It has seven, four box cars and three flats,
4466 and a passenger and baggage car.

Examiner Burchmore: Are those cars and that locomotive equipped with safety couplers and air brakes?

Mr. Niehuss: Yes, sir.

Examiner Burchmore: What rolling stock has the Cornie Valley Railroad?

Mr. Niehuss: They have four locomotives, about 75 logging cars, three flat cars, and two box cars.

Examiner Burchmore: How long have they owned those locomotives?

Mr. Niehuss: I think they have had them all about six years; I suppose they would run from eight to five years old.

Examiner Burchmore: Do those locomotives ever pass over the rails of the El Dorado & Wesson Railway?

Mr. Niehuss: They pass over the rails of the El Dorado & Wesson Railroad in the yard there at Wesson.

Examiner Burchmore: To and from the mill?

Mr. Niehuss: Right at the mill there is an interchange of switching and it is necessary for the Edgar Lumber Company's locomotives to go on the El Dorado & Wesson rails in order to get the logs into the mill.

Examiner Burchmore: In other words, the Edgar Lumber Company, through this agency, the Cornie Valley Railroad,
4467 performs the entire service of taking the logs from the woods and placing them in the mill pond?

Mr. Niehuss: Yes, sir.

Examiner Burchmore: And in order to perform that service they have to avail themselves of the spur track or other rails at Wesson around the mill?

Mr. Niehuss: They do. They go on to the siding of the El Dorado & Wesson Railroad and back into the Edgar Company's unloading track at the pond.

Examiner Burchmore: Does the El Dorado & Wesson locomotive ever pass upon the rails of the Cornie Valley Railroad?

Mr. Niehuss: Yes, sir, in order to do their switching there at Wesson they pass over the rails of the Cornie Valley.

Examiner Burchmore: Do the cars of the El Dorado & Wesson ever move over the Cornie Valley Railroad?

Mr. Niehuss: They do at times.

Examiner Burchmore: To what extent and for what purpose?

Mr. Niehuss: Well, occasionally they are sent out over the Cornie Valley Railroad for loading, especially on handling cotton seed and any products that the farmers in that community have to ship. The El Dorado & Wesson cars are sent out there and unloaded and brought in by the Cornie Valley engines and turned over to
4468 the El Dorado at Wesson.

Examiner Burchmore: The El Dorado & Wesson cars move out to points on the Cornie Valley?

Mr. Niehuss: Yes, sir, they are carried out by the Cornie Valley engines when necessary.

Examiner Burchmore: Do those cars ever pass off the rails of the El Dorado & Wesson on to the Rock Island or the Iron Mountain?

Mr. Niehuss: No, sir, they do not.

Examiner Burchmore: The cars are so used then in purely local movement from or to El Dorado or Wesson?

Mr. Niehuss: Yes, sir.

Examiner Burchmore: Do you ever receive empty cars from the Rock Island or Iron Mountain Railroad for loading with freight other than lumber at points on your line?

Mr. Niehuss: We do.

Examiner Burchmore: What commodities, for example?

Mr. Niehuss: Staves and stave bolts, cottonseed and anything of that kind that we can get hold of to ship.

Examiner Burchmore: Do you pay per diem on those cars?

Mr. Niehuss: We are not in the per diem associations, we pay demurrage $1.00 a day after 48 hours.

4469 Examiner Burchmore: And you charge demurrage against your shippers?

Mr. Niehuss: Yes, sir.

Examiner Burchmore: Do you have any demurrage tariff on file with the Interstate Commerce Commission?

Mr. Niehuss: That is covered in our tariff 100-A.

Examiner Burchmore: Are the lumber rates from points on your line on a milling in transit basis?

Mr. Niehuss: They are not.

Examiner Burchmore: Don't your tariffs contain a milling in transit privilege?

Mr. Niehuss: No, sir.

Examiner Burchmore: Are you acquainted with Philip Sabyl?

Mr. Niehuss: Yes, sir.

Examiner Burchmore: Who is he?

Mr. Niehuss: He got out some pipe staves, I believe they call them, out on the Cornie Valley Railroad and shipped them to New Orleans.

Examiner Burchmore: Is he still located on your line?

Mr. Niehuss: He does not live out there; he got out some staves; I don't think he has any more out there. If he has I do not know it. I do not know where he lives; I have seen him out there several times.

4470 Examiner Burchmore: Was he an extensive shipper over your line?

Mr. Niehuss: I think he shipped possibly four cars.

Examiner Burchmore: Do you recall whether he had a controversy with the El Dorado & Wesson Railroad Company in connection with his traffic, and if so, what was the nature of that controversy?

Mr. Niehuss: I do not remember that he had any controversy with the El Dorado & Wesson. He had a controversy with me in regard to the rate over the Cornie Valley to Wesson.

Examiner Burchmore: Then the Cornie Valley charged him something?

Mr. Niehuss: Yes, sir, they could not afford to haul the empty car 15 miles out and the load in without getting paid for it.

Examiner Burchmore: Do you recall what the Cornie Valley Railroad charged Mr. Sabyl for that service?

Mr. Niehuss: I think it was $20.00 a car, that is my recollection.

Examiner Burchmore: For a movement of what length?

Mr. Niehuss: The car moved about 13½ miles, if I remember correctly, some of it, and I think some of it moved further than that.

4471 Examiner Burchmore: Do you remember the fact with respect to his shipments, in a general way.

Mr. Niehuss: I never talked to him very much about the shipments. All the conversation I had with him about the shipments was that he asked me if we could not reduce the rate from the point of origin into Wesson, and I told him we could not because the class of stuff he handled was stuff which sold for about $75.00 a thousand, as I understand it, the very highest class of staves which can be gotten out.

Examiner Burchmore: Well, Mr. Sabyl, I preume, advised your company that he had some staves out there that he wanted to ship, in advance of the actual movement, and I assume that you furnished him an empty car there at the point of loading on the Cornie Valley Railroad.

Mr. Niehuss: Yes, sir.

Examiner Burchmore: And he loaded that car, I assume. Did the Cornie Valley Railroad accept that car when so loaded by Mr. Sabyl and haul it over its line to Wesson?

Mr. Niehuss: Yes, sir.

Examiner Burchmore: And there deliver it to the El Dorado & Wesson Railroad?

Mr. Niehuss: Yes, sir.

Examiner Burchmore: The El Dorado & Wesson then
4472 received it from the Cornie Valley Railroad and hauled it to the junction with the Rock Island?

Mr. Niehuss: Yes, sir.

Examiner Burchmore: And from that point it passed on to some destination?

Mr. Niehuss: I think it was destined to St. Louis, that is my recollection.

Examiner Burchmore: Who issued the bills of lading on those carloads of staves?

Mr. Niehuss: The El Dorado & Wesson.

Examiner Burchmore: Where did they issue those bills?

Mr. Niehuss: At Wesson.

Examiner Burchmore: What was the point of origin as shown in those bills?

Mr. Niehuss: Wesson.

Examiner Burchmore: Did the bills of lading indicate that the stuff had come in over the Cornie Valley?

Mr. Niehuss: I do not think they did. They were billed out as advance charges, and there were advance charges billed out.

Examiner Burchmore: The bill of lading showed the advance charges of the Cornie Valley Railroad?

4473 Mr. Niehuss: Yes, sir.

Examiner Burchmore: The Cornie Valley Railroad is a private carrier?

Mr. Niehuss: Yes, sir.

Examiner Burchmore: And yet it handled these carloads of staves in connection with the El Dorado & Wesson Railroad and the Rock Island for the movement to New Orleans?

Mr. Niehuss: Yes, sir.

Examiner Burchmore: And the Cornie Valley Railroad charged $20.00 per car.

Mr. Niehuss: Yes, sir.

Examiner Burchmore: What did the El Dorado & Wesson receive?

Mr. Niehuss: Three cents per hundred pounds.

Examiner Burchmore: Do you recollect what the approximate weight of those cars was?

Mr. Niehuss: No, sir, I do not remember.

Examiner Burchmore: 15 tons?

Mr. Niehuss: I don't remember what the weight of them was. I never did see the weight.

Examiner Burchmore: What would be your impression as to the amount of charges that the El Dorado & Wesson received.

4474 $10.00 or $15.00?

Mr. Niehuss: Yes, sir, I suppose if the cars weighed 60,000 pounds, in that case it would be $18.00.

Examiner Burchmore: For what distance did they haul these staves?

Mr. Niehuss: A fraction over ten miles, the full length of the line.

Examiner Burchmore: The Cornie Valley Railroad had no rate on file with the Commission to cover such a movement?

Mr. Niehuss: No, sir, they are not an incorporated road and did not consider it necessary.

Examiner Burchmore: Do you understand it necessary in order to be under the jurisdiction of the Interstate Commerce Commission that a railroad has to be incorporated as a common carrier?

Mr. Niehuss: We did not consider that the Cornie Valley Railroad was a common carrier.

Examiner Burchmore: Does the Cornie Valley Railroad receive any considerable amount of traffic from persons residing or doing business along its line for movement in connection with the El Dorado & Wesson?

Mr. Niehuss: There was quite a good deal of tonnage last year. I think we hauled some 50 or 75 cars of staves for the Little

4475 River Cooperage Company, which were shipped to Texarkana, Arkansas.

Examiner Burchmore: What did you charge on those staves?

Mr. Niehuss: We charged on those staves $10.00 a car.

Examiner Burchmore: Just half what you charged Mr. Sabyl.

Mr. Niehuss: Yes, sir; the staves were not worth one-fifth as

much money and the value was considerably less than the staves Mr. Sabyl shipped.

Examiner Burchmore: Do you understand it is the practice of railroads to make one price on first class staves, and another rate on second class staves?

Mr. Niehuss: I undertand that a private carrier has a right to charge any rate that they wish to charge.

Examiner Burchmore: What charge does the El Dorado & Wesson make on these staves to which you have referred?

Mr. Niehuss: Three cents per hundred pounds.

Examiner Burchmore: That would approximate $18.00 a carload?

Mr. Niehuss: Yes, sir.

Examiner Burchmore: Are there any joint rates on staves from Wesson to interstate destinations?

Mr. Niehuss: We have through billing arrangements: I
4476 do not know what the New Orleans rate is.

Examiner Burchmore: If the Cornie Valley Railroad is now receiving traffic from persons other than the Edgar Lumber Company, which it moves to Wesson and there delivers to the El Dorado & Wesson Railroad, the question occurs to me why the Cornie Valley Railroad is not absorbed by the El Dorado & Wesson as part of its system and as a traffic producing line.

Mr. Niehuss: I think it was explained by Mr. Edgar before noon that the Cornie Valley Railroad, the nature of the construction of the road is such that we would not want to haul passengers over it and be responsible; we would not feel like sending our passenger train over the Cornie Valley rails to carry passengers. It has 35 pound rail against 60 pound on the El Dorado & Wesson, and it never was built for a standard construction road.

Examiner Burchmore: We have discussed the question of staves. Now with respect to the matter of logs and lumber handled for the account of the Edgar Lumber Company, I understood you to testify that the logs are handled into the mill by the Cornie Valley Railroad without any assistance from the El Dorado & Wesson Railroad?

Mr. Niehuss: Yes, sir, that is correct.

Examiner Burchmore: Does the Edgar Lumber Company
4477 pay its agent, the Cornie Valley Railroad, any charge for handling these logs?

Mr. Niehuss: In reality the Edgar Lumber Company is handling the logs; the Cornie Valley Railroad is not a separate corporation: it is not incorporated at all.

Examiner Burchmore: Do they keep any books, the Corine Valley Railroad?

Mr. Niehuss: The Cornie Valley Railroad does not: they merely have an account on the Edgar Lumber Company's books.

Examiner Burchmore: Does the Edgar Lumber Company in its books make any charge of one cent or two cents or three cents per 100 pounds or per 1000 feet or a charge per carload?

Mr. Niehuss: It does not.

Examiner Burchmore: As a bookkeeping matter?

Mr. Niehuss: No, sir. We have our expense accounts divided up, but the Edgar Lumber Company does not make any charge at all. They pay the bill themselves.

Examiner Burchmore: We will assume that certain logs that have moved into the mill from the Cornie Valley have been manufactured into lumber and are ready to move to an interstate destination, where some sale has been effected; the empty car for such a movement would be furnished, I assume, by the Rock Island Railroad?

4478 Mr. Niehuss: It usually is.

Examiner Burchmore: Or by the Iron Mountain?

Mr. Niehuss: Yes.

Examiner Burchmore: We will assume the case where the Rock Island places the car; it is to be assumed that the El Dorado & Wesson hauls that empty car from El Dorado down to Wesson?

Mr. Niehuss: Yes, sir.

Examiner Burchmore: And there places it at the mill?

Mr. Niehuss: Yes, sir.

Examiner Burchmore: It is loaded with lumber by the mill employés, and is ready to move to an interstate destination just as any other shipment might be ready for transportation. Who issues the bill of lading?

Mr. Niehuss: The El Dorado & Wesson Railroad.

Examiner Burchmore: What employé of the El Dorado & Wesson Railroad?

Mr. Niehuss: We have an agent at Wesson.

Examiner Burchmore: Where is his office in Wesson?

Mr. Niehuss: In the lumber company's office.

Examiner Burchmore: He is also an employé of the lumber company?

Mr. Niehuss: He draws $85.00 a month from the railway company and $15.00 from the lumber company; because his work
4479 with the lumber company is merely checking invoices for the lumber company, and he did not need all his time to do the work of the railroad company and therefore the arrangement was made to give him a little additional work.

Examiner Burchmore: We will assume that this shipment we are discussing is going to Memphis, where the division I believe is five cents, is it not?

Mr. Niehuss: I think so; we get five cents from the Rock Island line to point on the Rock Island system.

Examiner Burchmore: This bill of lading issued by your agent at Wesson would show Wesson as the point of origin?

Mr. Niehuss: Yes, sir.

Examiner Burchmore: It would show Memphis as the destination and would also show, I assume, the published joint rate filed with the Interstate Commerce Commission?

Mr. Niehuss: Yes, sir.

Examiner Burchmore: And that rate from Wesson to Memphis is the same as the rate from El Dorado to Wesson?

Mr. Niehuss: Yes, sir.

Examiner Burchmore: That is true of all destinations?

Mr. Niehuss: Not all.

Examiner Burchmore: To which joint rates are published?

4480 Mr. Niehuss: No; we have to Seaboard territory, for instance, the Boston rate is three cents higher from Wesson than from El Dorado.

Examiner Burchmore: Generally speaking, however, the rates are the same?

Mr. Niehuss: Yes, sir, generally speaking they are.

Examiner Burchmore: Does the bill of lading indicate that the logs have come in over some other railroad?

Mr. Niehuss: It does not.

Examiner Burchmore: Does the bill of lading show any charge or allowance made either to the Cornie Valley Railroad or retained by the El Dorado & Wesson Railroad?

Mr. Niehuss: They do not.

Examiner Burchmore: They simply show the joint through rate?

Mr. Niehuss: They simply show the joint through rate.

Examiner Burchmore: Who issues the waybill?

Mr. Niehuss: The El Dorado & Wesson Railway.

Examiner Burchmore: A joint through waybill to Memphis?

Mr. Niehuss: Yes, sir.

Examiner Burchmore: What does that waybill show in addition to the information carried on the bill of lading?

4481 Mr. Niehuss: Well, it shows the joint through rate.

Examiner Burchmore: Does it also show the El Dorado & Wesson's proportion?

Mr. Niehuss: I am not sure about that; I do not bill the lumber out. Mr. Chaple, the man we employ there, makes out the waybills.

Examiner Burchmore: He is not present?

Mr. Niehuss: No, he is not present. It is made out in regular form, whatever it is.

Examiner Burchmore: Is it not a fact the waybill shows the Rock Island proportion of the rate separate from your portion?

Mr. Niehuss: I think it does; I think they show both proportions.

Examiner Burchmore: Do not the waybills also show advance charges of two cents per 100 pounds that represents the part of the earnings that is assigned to the Cornie Valley for its earning?

Mr. Niehuss: The Cornie Valley gets no earnings whatever.

Examiner Burchmore: Do not the waybills show two cents per 100 pounds as a split of that division?

Mr. Niehuss: It does not.

4482 Examiner Burchmore: You are sure about that?

Mr. Niehuss: Yes, sir. They may show an advance charge rate.

Examiner Burchmore: We will take the waybill, that does show an advance charge; what sort of an advance charge is that?

Mr. Niehuss: For instance, on staves the car is turned over to the El Dorado & Wesson with instructions to bill out $10.00 charges on the car, for instance, or whatever the charge may be, by the Cornie Valley Railroad.

Examiner Burchmore: That is in the case of staves, but now about

lumber, does not the lumber show such an advance charge on the waybill at times?

Mr. Niehuss: No, sir, there is no lumber shipped out; the Cornie Valley Railroad has not handled any lumber.

Examiner Burchmore: But my question was as to what the waybills showed?

Mr. Walter: You are speaking of lumber from the Edgar Lumber Company?

Examiner Burchmore: At Wesson. Is there anybody else that ships lumber out of Wesson?

Mr. Niehuss: There are two small mills shipping off of the El Dorado & Wesson Railroad.

4483 Examiner Burchmore: Where are they located?

Mr. Niehuss: Along the line of the El Dorado & Wesson.

Examiner Burchmore: Are there not any pine mills or shippers along the line of the Cornie Valley?

Mr. Niehuss: No, sir.

Examiner Burchmore: Has the Edgar Lumber Company any interest in the Cornie Stave Company?

Mr. Niehuss: None whatever.

Examiner Burchmore: Have the stockholders of the Edgar Lumber Company any interest directly or indirectly in the Cornie Stave Company?

Mr. Niehuss: None that I know of except I think we have one stockholder who has a small amount of stock in the Cornie Stave Company.

Examiner Burchmore: That is a very unimportant holding of his?

Mr. Niehuss: Yes, sir, very small.

Examiner Burchmore: But these shipments of staves on which the Cornie Valley Railroad is charged $10.00 to $20.00 were interstate shipments as well as state shipments?

Mr. Niehuss: I think some were interstate and some were state shipments; the majority of them were state shipments.

Examiner Burchmore: Is there any provision in the State

4484 Law of Arkansas which forbids a common carrier such as the El Dorado & Wesson purports to be, from accepting property from a private railroad owned by a shipper and advancing charges to that railroad?

Mr. Niehuss: If there is I do not know it; I am not familiar with it.

Examiner Burchmore: How long has the Cornie Stave Company been engaged in business on your line?

Mr. Niehuss: Eight years to my knowledge. I have been there eight years, and they have been shipping more or less during that time.

Examiner Burchmore: Reference was made this morning in connection with the map filed by Mr. Edgar, to the proposed extension southward through Three Creeks and on southward to some town which I have forgotten the name of. Is it not a fact that the Edgar

Lumber Company has extensive timber holdings down in that direction?

Mr. Niehuss: The Edgar Lumber Company have about 6,000 acres of timber land midway or a little more than half way between Wesson and Homer, Louisiana.

Examiner Burchmore: And this new extension would cross the Arkansas-Louisiana State Line?

Mr. Niehuss: Yes, sir.

4485 Examiner Burchmore: Is not that the real purpose of that extension, to reach the Edgar Lumber Company's holdings down there, the primary object?

Mr. Niehuss: It is not the real purpose of the extension. Of course the Edgar Lumber Company would go down there to get that timber; however if they only wanted to go down there and get that timber they would not expend $15,000 to build a line of railroad.

Examiner Burchmore: They have not spent anything yet to build the line of railroad.

Mr. Niehuss: They have spent about $20,000.

Examiner Burchmore: For surveys?

Mr. Niehuss: For surveys and grading and the right of way. We just let a contract for grading of five miles, and the contractors began work last week, standard construction.

Examiner Burchmore: Where has the Edgar Lumber Company raised the money to build this Cornie Valley Railroad?

Mr. Niehuss: I suppose they got it out of their earnings, or from lumber shipped, whether it was earnings or not I do not know; it was built like all other logging railroads.

Examiner Burchmore: The cost of constructing the El Dorado & Wesson Railroad, was apparently taken from divisions re-

4486 ceived from the Rock Island on business. Now did not those divisions help to build this Cornie Valley Railroad?

Mr. Niehuss: They did not, because at the time the Cornie Valley Railroad never did get any divisions.

Examiner Burchmore: Has the El Dorado & Wesson ever paid any dividends?

Mr. Niehuss: No, sir.

Examiner Burchmore: Have the operating expenses exceeded the earnings?

Mr. Niehuss: No, sir.

Examiner Burchmore: What has been done with the net return from operation?

Mr. Niehuss: We have a surplus account.

Examiner Burchmore: What is the amount of that surplus account?

Mr. Niehuss: I think it is about $40,000.

Examiner Burchmore: How long has it taken to build up that surplus?

Mr. Niehuss: It has been in operation since the latter part of 1907.

Examiner Burchmore: I know, but when did you begin to acquire a surplus?

Mr. Niehuss: As soon as there were any earnings, after the
4487 beginning of the operation; I do not remember just at what time.

Examiner Burchmore: Was there a deficit the first few years?

Mr. Niehuss: No.

Examiner Burchmore: Then it has been earning money from the beginning?

Mr. Niehuss: Yes, sir.

Examiner Burchmore: Is that an actual surplus or a book surplus?

Mr. Niehuss: Actual surplus.

Examiner Burchmore: You have got that cash on hand?

Mr. Niehuss: No, I did not understand; it is a book surplus. We have not got the cash; the cash is paid out and applied on the indebtedness of the road, and when that was liquidated of course the amount of surplus was increased.

Examiner Burchmore: It was paid to the Rock Island, you mean?

Mr. Niehuss: Yes, sir.

Mr. Walter: The Rock Island credited you instead of paying cash on these divisions, and entered up the credits on their books?

Mr. Niehuss: That applies to shipments to points on the
4488 Rock Island proper, but beyond the Rock Island proper we settle on interline accounts, the same as any other railroad would, and when the settlement comes to us, we put the money in the bank and check it out and send the Rock Island a voucher for it.

Examiner Burchmore: How many trains do you run a day?

Mr. Niehuss: One each way.

Examiner Burchmore: On a regular time table or schedule?

Mr. Niehuss: Yes, sir (producing paper).

Examiner Burchmore: That is a mixed train?

Mr. Niehuss: That is a mixed train.

Examiner Burchmore: Do you carry passengers?

Mr. Niehuss: We do.

Examiner Burchmore: What is the extent of your passenger traffic?

Mr. Niehuss: I think we carried something like 9,000 passengers last year.

Examiner Burchmore: What fare do you charge?

Mr. Gaughan: Have you a statement showing all those things accurately?

Mr. Niehuss: I have not a statement. The annual statements will show that. This does not show that accurately.

4489 (The time table so offered and identified was received in evidence, and thereupon marked El Dorado & Wesson Exhibit No. 1, Witness Niehuss, received in evidence January 24, 1911, and is attached hereto.)

(A paper was here handed the witness.)

Examiner Burchmore: Will you give those figures from that statement?

Mr. Niehuss: The statement of freight received and forwarded

for twelve months ending November 30th, 1909, forwarded by Edgar Lumber Comapny:

Cars.	Commodity.	Weight tons.	Earnings.
1,335	Lumber	29,549	$25,965.75
26	Wood	399	130.00
1	Scrap	31	44.35
L. C. L.	Merchandise	10	32.51

Total tonnage furnished by the Edgar Lumber Company:

1,362 cars		29,989 tons	$26,172.61

Forwarded by other than the Edgar Lumber Company:

124 cars	Staves & Bolts	3,353 tons	$2,011.89
7 "	Cotton Seed	149 "	161.70
8 "	Various items	165 "	105.45
L. C. L.	Merchandise	12 "	55.28
	Total—		
139 cars.		3,679 "	$2,334.32

4490 1,558 Way-bills forwarded.

Received by the Edgar Lumber Company, which the Edgar Lumber Company used:

16 cars	Feed	286 tons	$286.37
7 "	Flour	107 "	107.04
8 "	Hay	95 "	109.47
52 "	Coal	2,070 "	508.31
54 "	Various items	1,258 "	916.13
L. C. L.	Merchandise	583 "	1,814.32
	Total—		
137 cars.		4,399 tons	$3,741.64

Received by other than the Edgar Lumber Company:

5 cars	Fertilizer	103 tons	$90.60
2 "	Hay	24 "	19.20
L. C. L.	Merchandise	78 "	257.66
	Total—		
7 cars		205 tons	257.66
	Total received—		
144 cars.		4,604 tons	$4,109.10
	Total received and forwarded—		
1,645 cars.		38,272 tons	$32,616.03

4491 1088 Way-bills received.

Ticket sales, that is cash fares, there are no tickets sold	$4,400.10	
Express	261.00	
U. S. Mail	326.64	
Total		$4,987.74
Total gross earnings		$37,603.77

U. S. Mail Contract No. 147,052.

Examiner Burchmore: That is for the twelve months ending November 30th, 1909?

Mr. Niehuss: Yes, sir.

Examiner Burchmore: Do you also have the twelve months ending November, 1910.

Mr. Niehuss: Yes, sir.

Examiner Burchmore: Without reading all those figures, do they show much of an increase?

Mr. Niehuss: Well, I can give you the increase without reading the figures, just give you the totals?

Examiner Burchmore: Yes.

Mr. Niehuss: Forwarded by Edgar Lumber Company in 1909, 29,000 tons against 37,000 tons in 1910.

Examiner Burchmore: Read the exact figures in the summary.

Mr. Niehuss: Forwarded by the Edgar Lumber Company
4492 in the year 1909, 29,989 tons, revenue $26,172.61. In the year ending November 30th, 1910, 37,647 tons, revenue $32,502.90.

Other than Edgar Lumber Company, for the year ending Nov. 30th, 1909, 3,679 tons, revenue $2,334.32. Year ending November 30th, 1910, 6,119 tons, revenue $3,962.20, that is forwarded.

Now the received:

Received by Edgar Lumber Company in the year ending November 30th, 1909, 4,399 tons, revenue $3,741.64.

For the year ending November 30th, 1910, received by Edgar Lumber Company, 3,636 tons, revenue $3,700.24.

Received by other than Edgar Lumber Company, 1909, 205 tons, revenue $367.46, against the year ending November, 1910, 456 tons, revenue $572.75.

Passenger earnings for the year 1909, $4,400, against $5,218.10 in 1910.

Express $261.00 against $341.53.

The mail contract was the same, $326.64.

Examiner Burchmore: You will file those as exhibits?

Mr. Niehuss: Yes, sir.

4493 (The statement so offered and identified, was received in evidence, and thereupon marked El Dorado & Wesson Exhibit No. 2, Witness Niehuss, received in evidence January 24, 1911, and is attached hereto.)

Mr. Walter: You might make the distinction in the total earnings for the year ending 1909 as compared with 1910.

Mr. Niehuss: Total earnings for 1909, $37,603.77 against $46,624.32 in 1910.

Examiner Burchmore: What were your operating expenses for the last year or this period covered by these statements?

Mr. Niehuss: I overlooked getting the operating expenses; they are about the same though as shown in the annual statement. They do not vary hardly any.

Examiner Burchmore: Do you know what the operating income is in this year approximately, that is the excess of receipts over disbursements?

Mr. Niehuss: No, I do not off hand. I did not get that information. It is about the same as shown in the annual statement.

Mr. Walter: We will furnish that.

Examiner Burchmore: Are there any other interests that own any timber out there on the Cornie Valley Railroad?

Mr. Niehuss: The Cornie Stave Company own some timber out there.

4494 Examiner Burchmore: Well, that is hardwood timber?

Mr. Niehuss: That is hardwood timber, yes, sir.

Examiner Burchmore: Is that on the land you have already cut the pine on?

Mr. Niehuss: No, they own most of the land. They also own a small amount of pine, however it is not very large.

Examiner Burchmore: Has the Cornie Stave Company ever made complaint of the fact that the Cornie Valley Railroad is a private enterprise and not a common carrier?

Mr. Niehuss: No, sir, not to my knowledge.

Examiner Burchmore: They are satisfied to pay $10.00 over the Wesson rate?

Mr. Niehuss: I don't know whether they are satisfied or not; they have been paying it.

Examiner Burchmore: Have they made any complaint about it?

Mr. Niehuss: No, sir, not to my knowledge. Of course they would like to have it eliminated if they could.

Examiner Burchmore: Do you know what their attitude is on the question involved in this proceeding?

Mr. Niehuss: I do not.

Examiner Burchmore: Is there any other interest that has any timber out there west of Wesson in the territory traversed

4495 by the Cornie Valley Railroad?

Mr. Niehuss: There is a man by the name of Sparkman who holds about 4,000,000 feet of pine.

Examiner Burchmore: Is he cutting his pine?

Mr. Niehuss: No, sir, not cutting any. He bought this up I think, two years ago.

Examiner Burchmore: Do you know why he is not cutting?

Mr. Niehuss: No, sir, I do not.

Examiner Burchmore: Suppose you incorporated the Cornie Valley Railroad as a part of the El Dorado & Wesson, I mean the en-

tire main line of the Cornie Valley, not its temporary logging spurs; would not the result of that incorporation be that this other man that you mention down there in the woods would be able to reach interstate markets in competition with the Edgar Lumber Company, whereas now he is unable to do so.

Mr. Niehuss: I think that timber was bought with the expectation of this proposed line going through, and I do not doubt but what when we get the road constructed through that he will operate and cut that timber, or else sell it; I am satisfied he bought with the belief that the El Dorado & Wesson would be extended.

Examiner Burchmore: If the El Dorado & Wesson incorporated road is not extended into his woods, he will never be able to
4496 cut profitably?

Mr. Niehuss: Well, I don't know whether he will or not, I could not say about that.

Examiner Burchmore: Where are his woods, out along the proposed line of extension, or along the present Cornie Valley?

Mr. Niehuss: Along the proposed line of extension.

Examiner Burchmore: What is the nearest big lumbering operation near you in this territory which has a tap line connected with it?

Mr. Niehuss: On the north side we have the Griffen, Magnolia & Western Railroad, the Griffen Milling Company or the Louis Werner Saw Mill Company it is, at Griffen, and on the south or southeast we have the Bernice Lumber Company, that is down in Louisiana.

Examiner Burchmore: Do they connect with the Rock Island?

Mr. Niehuss: Yes, sir.

Examiner Burchmore: Do you know what their divisions are?

Mr. Niehuss: No, I do not.

Examiner Burchmore: What is the name of their railroad?

Mr. Niehuss: I don't know.

Mr. Gaughan: The Bernice & Northwestern.

Examiner Burchmore: If I say that the testimony already
4497 taken with respect to the case of the Bernice & Northwestern indicates that that road has a mileage of approximately 27 miles, and that it receives an allowance of one to four cents per 100 pounds, what would be your answer to this question: Their maximum allowance is four cents and their usual allowance is somewhat less than four cents, we will assume. Your allowance is five cents per 100 pounds from the Rock Island. Is it reasonable and fair for you to receive for a haul of 10 or 15 miles an allowance of five cents, when the Bernice Lumber Company only receives three or four cents for 27 miles?

Mr. Niehuss: I think under the circumstances it is; the circumstances are these: that we built a standard constructed railroad, and spent $166,000 to build ten miles and equip it, and we are carrying passengers and we are responsible for the safety of those passengers and the safety of that freight.

Examiner Burchmore: Do you understand that the Bernice &

Northwestern is not a substantially built road and does not assume all the obligations of a common carrier?

Mr. Niehuss: No, I do not know anything about how the railroad is built; I have never been over it.

Mr. Walter: Do they operate the full 27 miles, does the record show?

Examiner Burchmore: I am not positive what the record
4498 shows, but I have a memorandum of it.

Mr. Gaughan: My recollection is it was 12 miles.

Mr. Walter: And carries no passengers.

Mr. Gaughan: That is a freight road.

Mr. Walter: And that total mileage is due to two branches and not one main line.

Examiner Burchmore: Well, the lumber market at present is a very close market, is it not?

Mr. Niehuss: Yes.

Examiner Burchmore: Does it occur to you that the Edgar Lumber Company or its allied corporation receiving five cents per 100 pounds on lumber to Rock Island markets, has a substantial advantage over the Bernice Lumber Company, which only gets two or three cents and assumes all the obligations of a common carrier?

Mr. Niehuss: I do not think the Edgar Lumber Company has any advantage. In fact those divisions range from one and one-half cents to five cents.

Examiner Burchmore: What divisions?

Mr. Niehuss: That the Edgar Lumber Company gets.

Examiner Burchmore: Yes, on the Iron Mountain——

Mr. Niehuss: They do not get any on the Iron Mountain.
4499 We have no through joint rate on the Iron Mountain except through the Rock Island to points on the Iron Mountain in Missouri.

Examiner Burchmore: What is your division?

Mr. Niehuss: One and one-half cents to five cents.

Examiner Burchmore: To what point do you get one and one-half cents?

Mr. Niehuss: Points in Texas.

Examiner Burchmore: Do you ship any to Texas?

Mr. Niehuss: Yes, sir.

Examiner Burchmore: Any substantial amount?

Mr. Niehuss: We don't ship any great amount, but we have shipped some business to Texas.

Examiner Burchmore: Do you know what your average earning is on your lumber that you haul in connection with the Rock Island?

Mr. Niehuss: No, I have never figured out the average earning.

Mr. Cowan: You stated about four and one-half cents for 1910.

Examiner Burchmore: Yes, your figure is 29,549 tons of lumber handled for the Edgar Lumber Company during the year
4500 ended November 30th, 1909, and receipts were $25,965.75, $25,000 on 29,000 tons, which is a shade under five cents; apparently the bulk of your lumber must carry the four or five cent division.

Mr. Niehuss: It may be possible. I have not figured it out.

Examiner Burchmore: Could this mill at Wesson continue in operation if the El Dorado & Wesson Railroad Company went out of business?

Mr. Niehuss: I suppose they would have to.

Examiner Burchmore: Have to continue in business?

Mr. Niehuss: They could not continue in business unless they had an outlet for their product through some railroad; they are isolated from any trunk line.

Examiner Burchmore: In other words, if the El Dorado & Wesson ceased to do business, and no other railroad built into Wesson, the Edgar Lumber Company would have to close up its mill there.

Mr. Niehuss: Yes, sir.

Examiner Burchmore: Suppose the Cornie Valley Logging road was tied up and you had to depend on oxen or mules to get your logs into the mill, would the mill continue in operation?

4501 Mr. Niehuss: It would starve to death in 30 days.

Examiner Burchmore: What is that?

Mr. Niehuss: It could not possibly operate.

Examiner Burchmore: It seems that the El Dorado & Wesson is absolutely essential to the operation of the mill in its present location.

Mr. Niehuss: Either the El Dorado & Wesson or some other railroad, they would have to have a railroad in order to get their finished product to the market.

Examiner Burchmore: Would any other railroad system be justified in building in there at the present time in view of the traffic around there which is available for movement?

Mr. Niehuss: I do not know whether they would be or not.

Examiner Burchmore: And the private logging road of the Cornie Valley Railroad is equally essential to the conduct of the mill at Wesson?

Mr. Niehuss: Yes, sir.

Mr. Walter: The same thing is true of the Rock Island and the Iron Mountain, if they were not there you would not be able to do business.

Mr. Niehuss: No, we could not do business if we did not

4502 connect at El Dorado or some other point.

Mr. Gaughan: How far have you gone in the matter of building a road from Wesson down to Homer?

Mr. Niehuss: We have, beginning five miles out from Wesson or say ten miles out, we have constructed two and one-half miles of standard construction, nothing over one per cent grade, and we have got back within five miles and let contracts last week for the grading. There are 28 teams at work cutting the right of way and grading this line. We completed the survey from Wesson to Minden, Louisiana.

Mr. Gaughan: Have you got that map yet showing the survey or profile of that line?

Mr. Niehuss: I have a profile from Wesson to Homer, and from Homer to Minden.

Mr. Gaughan: Please let them be filed as exhibits.

(The maps so offered and identified, were received in evidence and thereupon marked El Dorado & Wesson Exhibits Nos. 3 and 4, Witness Niehuss, received in evidence January 24, 1911.)

(Exhibits Nos. 3 and 4 were afterwards withdrawn by counsel.)

Mr. Gaughan: What has been done by the people at Ho-
4503 mer, if anything, toward extending aid in the construction of this railroad?

Mr. Niehuss: The citizens of Homer have voted a $50,000 tax to aid in the construction of this road into Homer.

Mr. Gaughan: What weight of steel have you on the El Dorado & Wesson?

Mr. Niehuss: 60 pound.

Mr. Gaughan: Do you remember what the greatest grade is?

Mr. Niehuss: The greatest grade of any length is one per cent; there are two or three short, what you might call momentum grades of one and one-half per cent.

Mr. Gaughan: Is that a rough country through which this is constructed?

Mr. Niehuss: Very rough, as the profile will show; there are some pretty good hills.

Mr. Gaughan: Have you any scales to weigh cars?

Mr. Niehuss: We have 100 ton Fairbanks track scales.

Mr. Gaughan: Where are the scales?

Mr. Niehuss: At Wesson, on the El Dorado & Wesson tracks.

Mr. Gaughan: Do you know whether or not the El Dorado & Wesson is a member of the Weighing Association?

Mr. Niehuss: They are.

4504 Mr. Caughan: Does the El Dorado & Wesson comply with the State and Federal laws with reference to common carrier railroads?

Mr. Niehuss: They do.

Mr. Gaughan: Did you file a copy of your time table?

Mr. Niehuss: Yes, sir.

Mr. Gaughan: Have you filed with the Interstate Commerce Commission your tariffs?

Mr. Niehuss: Yes, sir.

Mr. Gaughan: I believe that is all.

Mr. Cowan: In regard to the track scales which have just been asked about, what has that to do with the matter of whether a railroad in a common carrier and entitled to a division of rates?

Mr. Niehuss: I don't know that it has any except the El Dorado & Wesson weights are accepted.

Mr. Cowan: Is it not a matter at least of convenience if not of necessity that a saw mill putting out as much business as the Edgar Lumber Company should need to protect itself by having track scales for the purpose of weighing its product and knowing for themselves what they are doing?

Mr. Niehuss: It would not make any difference to the saw mill company, because they would get the weights anyway.

4505 Mr. Cowan: If the saw mill company pays the freight it makes a difference?

Mr. Niehuss: I understand that, but the lumber would be weighed before it reached destination, and the saw mill company would get the weight, the same as they are getting them now.

Mr. Cowan: When this lumber is weighed there, is that the weight on which the freight is paid or is it paid on a delivered weight when the delivering line weighs it?

Mr. Niehuss: It is paid on the weight at Wesson, unless there is any error found in the weight, when of course it is corrected if it is re-weighed.

Mr. Cowan: Do you know whether there is any arrangement whereby if the divisions would be cut out in this case that the Rock Island would take over the El Dorado & Wesson?

Mr. Niehuss: Not to my knowledge.

Mr. Cowan: Is there any such agreement, Mr. Gaughan?

Mr. Gaughan: There is not.

Mr. Cowan: Do you recall the ratio of operating expenses to the gross earnings?

Mr. Niehuss: No, sir. Our annual report would show that. I did not compare the figures for this meeting.

4506 Mr. Cowan: If I made my figures correctly you get about 8 cents a ton mile for hauling this lumber. What is the distance?

Mr. Niehuss: A fraction over ten miles.

Mr. Cowan: Estimated on the ton mile basis, it would be somewhere around eight cents apparently. Have you in mind what the earnings would be to the places where you ship the lumber on the average per ton mile, the through rate?

Mr. Niehuss: Do I know what the through rate is?

Mr. Cowan: No, have you in mind what the average per ton mile earnings would be?

Mr. Niehuss: No, sir, I do not know.

Mr. Cowan: Have you ever investigated generally what are the average earnings per ton mile on lumber on the Rock Island or any other system of road?

Mr. Neihuss: I have not.

Mr. Cowan: If the Rock Island Railroad earns 6 mills per ton per mile on the average for about 450 or 500 miles average haul, would you say that 12 times that much per ton mile for your road would be a fair basis?

Mr. Niehuss: I don't know that that is the case and consequently I am not prepared to answer your question.

Mr. Cowan: Let me see what service your railroad performs.

4507 The lumber company loads the lumber at the mill?

Mr. Niehuss: Yes.

Mr. Cowan: And all you have to do is to hau' it on your railroad from there on to El Dorado, that is correct?

Mr. Niehuss: Yes, sir.

Mr. Cowan: How many cars do you move per day, generally speaking?

Mr. Niehuss: I suppose between four and five cars a day.

Mr. Cowan: When you get into El Dorado what service do you perform there with the car?

Mr. Niehuss: We simply deliver the loads at El Dorado and place them on the side track.

Mr. Cowan: Is that an exchange track alongside of your track?

Mr. Niehuss: Yes, sir.

Mr. Cowan: And the Rock Island takes it from there and puts it into their train?

Mr. Niehuss: Yes, sir.

Mr. Cowan: Have you ever made any figures as to what it cost you for the actual service independent of the maintenance of the property, per carload, or for some unit for the handling of the lumber from Wesson to El Dorado?

Mr. Niehuss: Nothing more than is figured out in the
4508 annual report, and I think it gives that information. I do not remember what it was.

Mr. Cowan: I imagine it does not give that information if it is just on the regular form. It gives the aggregate and the rate per ton mile, but it does not separate between freight and passenger expenses and between the expenses for the l. c. l. and the local and small business and your lumber business.

Examiner Burchmore: It might be, on a road whose tonnage is so largely lumber, that you could arrive at that result by taking the total of their transportation expenses and dividing it by the number of carloads of lumber handled, and come somewhere near it.

Mr. Cowan: I imagine it could undoubtedly, but I do not think it could be taken from the annual report because those figures are not a part of such reports, and I wondered if he had ever made the figures. The cost of handling this lumber per car exclusive of the matter of maintenance consists of the train service of taking the loaded car from the mill to El Dorado and returning the empty car for the purpose of loading.

Mr. Niehuss: I suppose the expense of keeping up the track
4509 would be figured in as an element.

Mr. Cowan: I said exclusive of maintenance.

Mr. Niehuss: Yes.

Mr. Cowan: What do you pay your engineer and fireman, on what basis do you pay them?

Mr. Niehuss: Engineer $75.00 a month, and the fireman $1.50 a day.

Mr. Cowan: Do they belong to the engineers' and firemen's association of railroads?

Mr. Niehuss: They do not.

Mr. Cowan: Does the organization of Locomotive Engineers & Firemen recognize your railroad as a common carrier?

Mr. Niehuss: I do not know whether they do or not. Some of them are mighty anxious to get down there.

Mr. Cowan: I think they would raise the wages if they did. Do you have contracts with any labor organizations?

Mr. Niehuss: We do not.

Mr. Cowan: And there are no rules and regulations prescribed by them for the wages and hours of your men?

Mr. Niehuss: No.

Mr. Cowan: Something has been said here about the burden of the Hours of Service Law as prescribed by the Act of Congress. You are not required to hold your men over 16 hours on
4510 trains?

Mr. Niehuss: No, sir.

Mr. Cowan: And that subject has never come up?

Mr. Niehuss: No.

Mr. Cowan: I notice in the coal which you ship inbound to the lumber company, that you shipped in 2,070 tons of coal and the revenue was $508.00, which if I figure correctly is 24½ cents a ton. Do you know any reason why the small amount of coal coming in to the Edgar Lumber Company should move over the same track in that direction at 24½ cents as compared to 86 cents a ton in the case of lumber moving in the opposite direction?

Mr. Niehuss: I do not know of any reason except that the tariff provides that we are allowed 27½ cents a ton, and there is no rea son why we should not collect it.

Mr. Cowan: You are allowed 27½ cents in the local tariff?

Mr. Niehuss: Yes.

Mr Cowan: This coal then moves on the local tariff?

Mr. Niehuss: I do not mean local tariff, but we are allowed 27½ cents a ton on interstate coal shipments.

Mr. Cowan: Over that part of the line?

Mr. Niehuss: Yes, sir, both by the Iron Mountain and the Rock Island.

4511 Mr. Coleman: You have a joint through rate inbound on coal?

Mr. Niehuss: Yes, sir.

Mr. Cowan: I find too, that of 3,025 tons of various items of merchandise—it does not say merchandise but says "various," 3,025 tons, the earnings were $1,764. That is tons received by the Edgar Lumber Company, and if I figure it correctly, that would be 55 cents a ton. Do you conceive that the various articles constituting that 3,000 tons should be hauled in at 55 cents a ton while your division with the Rock Island should equal 85 cents a ton?

Mr. Niehuss: I do not konw; we have tariffs in effect covering all those rates and anything that comes in there the railroad company collects its published rate.

Mr. Cowan: Of course you get all you can, that is proper and nobody would object to that, but I was wondering if your division with the Rock Island did not appear to be too high as measured by what you actually get on the local freight rates or on business coming in?

Mr. Niehuss: I should say not, if the Rock Island will pay it.

Mr. Cowan: That is all.

Mr. Garwood: What wages do you pay your brakemen?

Mr. Niehuss: Our conductor and fireman both act as brake-
4512 men; the fireman gets $1.50 a day and the conductor $60.00 a month.

Examiner Burchmore: Why did not the Rock Island build from El Dorado to Wesson itself?

Mr. Niehuss: I don't know why they did not unless they realized they could not operate a short line road like that to advantage

Examiner Burchmore: You mean there was not enough traffic on it?

Mr. Niehuss: No, I mean that I believe the El Dorado & Wesson as operated at present can be operated much cheaper than if owned by the trunk lines.

Examiner Burchmore: How much cheaper?

Mr. Niehuss: I don't know, I have never figured it out, but the matter of these wages coming up with the employes and one thing and another, I am satisfied they are a good deal less than they would be if owned by a trunk line.

Examiner Burchmore: Would it have cost the Rock Island $40,000 more to operate that railroad for five years than it cost you to operate it?

Mr. Niehuss: I could not say about that.

Examiner Burchmore: Do you think your efficiency is $8,000 a year greater than the Rock Island's efficiency.

4513 Mr. Niehuss: I am not figuring it that way.

Examiner Burchmore: I just wanted to see why it was, if you had any knowledge or impression, that the Rock Island instead of building itself from El Dorado to Wesson allowed you to build and paid for the road.

Mr. Niehuss: I don't know why it was. If the Rock Island ever intimated that they wanted to build a railroad out there I do not know anything about it. We merely went to the Rock Island and told them we were going to build a railroad to El Dorado.

Mr. Coleman: I did not get it clear whether there was an outbound through rate on staves.

Mr. Niehuss: I think there is a through rate to New Orleans. There is through billing arrangement, and where there is no through rate the local rate applies.

Mr. Coleman: Where was this joint agent located?

Mr. Niehuss: I did not say anything about a joint agent.

Mr. Coleman: You said something about a man who got $85.00 from the railroad and $15.00 from the lumber company.

Mr Niehuss: Yes, sir. I said the agent at Wesson received $85.00 from the railroad company and received the sum of $15.00 from the lumber company for doing a very small amount of work which consisted of checking invoices.

4514 Mr. Coleman: Are there other agents along the line?

Mr. Niehuss: One.

Mr. Coleman: He is the only one you have?

Mr. Niehuss: He is the only one.

Mr. Coleman: He makes out the waybills and bills of lading.

Mr. Niehuss: The conductor acts as agent at El Dorado during the time the train remains there, which is about three hours.

Mr. Coleman: Do you claim you comply with all the Federal Interstate Commerce laws?

Mr. Niehuss: Yes, sir.

Mr. Coleman: You know there is a provision in the Interstate Commerce Law which makes it a penalty for a railroad agent to disclose to a shipper the shipments of another shipper?

Mr. Niehuss: I do not know that it has been violated.

Mr. Coleman: What is that?

Mr. Niehuss: I don't know that that has been violated.

Mr. Coleman: Well, if an outside man ships some stuff to this man, $85.00 of whom is railroad company and $15.00 lumber company, don't you suppose the $15.00 worth of lumber company in that man would know of the outside shipment?

4515 Mr. Niehuss: If you chop him up that way, if it was his head he might know it, and if his feet I don't think he would.

Mr. Coleman: I wanted to know if you thought that law was complied with.

Examiner Burchmore: There are some Federal laws that are not fully complied with by all railroads.

Mr. Coleman: I will drop it, I guess.

Mr. Gaughan: Counsel asked you to explain why it was that the revenue on lumber was considerably higher than the revenue on coal. As a matter of fact this lumber is originated on the line of the El Dorado & Wesson Road, is it not?

Mr. Niehuss: Yes, sir.

Mr. Gaughan: And your coal is not?

Mr. Niehuss: The coal is not.

Mr. Gaughan: Do you know whether or not it is the custom among railroads for the originating lines to get the largest percentage of the revenue, other matters being considered?

Mr. Niehuss: Yes, sir.

Examiner Burchmore: Is that the invariable custom, is it not the custom for the road for whom the traffic is local to get the fat end of the divisions, whether it be the——

Mr. Walter: To what?

Examiner Burchmore: To whom the traffic is local and

4516 non-competitive.

Mr. Coleman: Is it not a fact that the initial line furnishes the car when it gets that big division.

Examiner Burchmore: I think those are facts, so far as they are facts, which are well within the knowledge of the Commission.

Mr. Gaughan: I did not propose to pursue it any further, except I wanted it in the record.

Mr. Coleman: May I ask whether you have joint rates on anything else besides staves and lumber outbound?

Mr. Niehuss: We have through rates.

Mr. Coleman: Well, on which you get a division, I mean.

Mr. Niehuss: We get a certain per cent of the through rate.

Mr. Coleman: On what have you got that?

Mr. Niehuss: We have class and commodity rates.

Mr. Coleman: On what?

Mr. Niehuss: On everything. We have through rates on practically everything.

Mr. Coleman: Outbound?

Mr. Niehuss: Outbound and inbound.

Mr. Gaughan: I would like the witness before he leaves the stand, to file a statement showing the other stores and enterprises served by the El Dorado & Wesson besides the Edgar Lumber Com-
4517 pany.

Mr. Cowan: Let him tell it, and then we will all see it in the record.

Examiner Burchmore: How many are there?

Mr. Niehuss: Six or seven, that is all.

W. D. Brakefield, General Merchant, at Wesson.

Kinard Company, General Merchants.

Ulmer Brothers, General Merchants.

P. F. Simmons, Cotton Gin.

J. R. Burns, and a man by the name of

C. C. Braswell, has a small mill located about four and a half or five miles from the El Dorado & Wesson Road, and ships out a small amount of lumber. It is not any great amount of tonnage.

Mr. Garwood: That is the only railroad that serves them?

Mr. Niehuss: Yes, sir. And the Cornie Stave Company, they are located at Junction City; they however, ship quite a good many staves over the road.

The New Port Stave Company, of El Dorado, Arkansas, have been buying timber along the road of the El Dorado & Wesson for the past two years. That material which they get is shipped out by farmers along the road.

Examiner Burchmore: May we have Mr. Braswell send to
4518 the Commission a statement as to his attitude toward the railroad and what he thinks of its practices?

Mr. Niehuss: Yes, sir.

Mr. Cowan: In view of the last suggestion about the merchants, I wish to call attention to the statement in the questions to the witness—the question is where you state that in 1910 l. c. l. merchandise amounted to 13 tons, was that the total business you sent to the merchants, or did they get their merchandise in some other way besides by the railroad.

Mr. Niehuss: I do not think the railroad company handled nearly all the merchandise they sold.

Mr. Cowan: How did they get it?

Mr. Niehuss: What the railroad company did not handle I suppose they hauled it by wagon. I don't know how they got it.

Examiner Burchmore: That is two tons apiece.

Mr. Cowan: For a year. I also see that the Edgar Lumber Company had 19 tons of merchandise, so they had the other fellows skinned in the ratio of 19 to 15 tons.

Mr. Walter: They had 78 tons of merchandise inbound for other than the lumber company.

Mr. Cowan: I see.

4519 (Witness excused.)

Mr. Garwood: Mr. Commissioner, in view of your suggestion to the witness, that he send a letter asking as to the attitude of one of these independent merchants, I would like to ask if the Commission would like information of that general character from people located along these various lines? We could have brought so much of that here that you would have to charge carload rates on it, but I did not know that it was desirable. We would like to do it if you think that the Commission would like to have it.

Examiner Burchmore: One of these short line railroads has sent in such letters and they form a file that thick (indicating) and it is impossible to even read them.

Mr. Garwood: That is what I apprehended, but——

Examiner Burchmore: But in the case of this road the Commission received quite a vigorous complaint from this Mr. Sabyl to whom reference has been heretofore made, as to the rates and practices of this system, and we want to see what their other lumber shipper thought about it.

Mr. Gaughan: Received a complaint about what?

Examiner Burchmore: That complaint to which I refer was the subject of correspondence between the Commission and Mr.

4520 Niehuss.

Mr. Gaughan: A good many questions have been asked by the Examiner with reference to these stave shipments, and if you read the decision of the Supreme Court of Arkansas in the case of the Cornie Stave Company against the Edgar Lumber Company, all that will be cleared up.

Mr. Coleman: What is it about?

Mr. Gaughan: The decision about those shipments.

Mr. Coleman: How will it clear it up?

Mr. Gaughan: It will show the ground of complaint. There was an old contract made by the H. C. McDaniel Lumber Company which seems to have been inherited by the Edgar Lumber Company. Under that contract the Cornie Stave Company was to have an advantage out over this logging road. The Edgar Lumber Company declined to give it to them or at least took the position that it did not desire to do it.

Examiner Burchmore: On what ground?

Mr. Gaughan: On the ground that that created a monopoly in favor of the Cornie Stave Company. The Supreme Court however ruled against the Edgar Lumber Company and held that they must carry it out, and of course, that made an apparent discrimination against other stave shippers. The Supreme Court said that that was a private carrier and had the right to charge anyone what it pleased and it could carry for one and for no other, and therefore it

4521 must stand by this contract.

Examiner Burchmore: Did the force of that judgment or decree apply over the El Dorado & Wesson?

Mr. Gaughan: No, it had nothing to do with it.

Mr. Walter: I think it does appear in this case that all shippers

on the El Dorado & Wesson get the benefit of the blanket rate, and so it might follow that all will get it.

Mr. Cowan: I want to ask Mr. Edgar one question.

C. V. EDGAR, was recalled as a witness, and having been previously sworn, testified as follows:

Mr. Cowan: The question was asked awhile ago of the other witness why the Rock Island had not furnished the money to build this railroad considering it seemed to be a very paying piece of property, and I was tempted to ask you the question if the Rock Island were not in the fix that if they loaned you the money and you built the railroad, they make a contract with you for the tonnage, whereas if they built the railroad you would still be open to build one over to the Iron Mountain and take the divisions; was that matter discussed between you and the Rock Island when you made the contract?

4522 to 4525 Mr. Edgar: You understand that originally we had this temporary or insufficient connection at Cornie with the Arkansas Southern which passed to the Rock Island Road. They then built through and connected with the northern end of that at El Dorado, and made it a part of the present Louisiana Division. We started to build to El Dorado, having in mind that we were going to build to the Iron Mountain Road because the service and the railroad facilities and everything down at Cornie or going out to this then small road of the Arkansas Southern were not considered sufficiently advantageous, and it was more advantageous to build to the county seat and have our connection there, in order to get cars and as there were a great many merchandise cars coming in there, and you understand how those things are. And the Rock Island people got wind of that, that we were figuring on building up there and connecting with the Iron Mountain, and they knew what our tonnage had been up there and made some investigation and found it was probably going to be increased, and they came to us and said, "Here, let us make an arrangement with our people up in Chicago to take this matter up with you; we want to retain that tonnage which we have been getting at Cornie." And we went up and had such a conference with them, that the contract was the outcome of it.

4526 Now as to just why they did not adopt the policy of building the tap line themselves I do not know. One Rock Island man who was in the conference said that he was in favor of their building themselves and not allowing us to build, but he was overruled by higher authority and they decided it was best for us to build. Why I do not know, of course.

(Witness excused.)

O. E. HODGE, was called as a witness, and having been duly sworn, testified as follows:

Examiner Burchmore: You are President of the North Louisiana & Gulf Railroad Company?

Mr. Hodge: Yes, sir.

Examiner Burchmore: That railroad runs from a connection with the Rock Island System at a point known as Hodge in the State of Louisiana in a westerly and southerly direction to a point known as Shady?

Mr. Hodge: No, sir, it runs to Danville. It did run to Shady, but we got permission from the Commission to change that, and it runs to the western end, which is Danville, and we have a connection with the Louisiana & Northwest at Bienville.

Examiner Burchmore: What is that mileage?

Mr. Hodge: Ten miles from Hodge to Danville.

Examiner Burchmore: That is ten miles?

Mr. Hodge: Ten miles from Hodge to Danville.

Examiner Burchmore: Where is Shady?

Mr. Hodge: Two and a half miles from Danville.

Examiner Burchmore: When did you build from Shady
4528 to Bienville?

Mr. Hodge: It is not built from Shady to Bienville, they are the two termini.

Examiner Burchmore: There are two separate lines of railroad?

Mr. Hodge: Yes.

Examiner Burchmore: One from Hodge to Shady——

Mr. Hodge: From Hodge to Danville, a distance of ten miles.

Mr. Walter: That is beyond Shady.

Mr. Hodge: And the other end is from Bienville east.

Examiner Burchmore: To where?

Mr. Hodge: To Walsh.

Examiner Burchmore: We want to get this straight, so we will not have to ask any more questions. The road connects with the Rock Island at Hodge, and runs in a westerly and southerly direction through a point called Shady, which was formerly the terminus, on to where?

Mr. Walter: The Shady spur has been taken up.

Mr. Hodge: We run south to Danville.

Examiner Burchmore: Where was Shady?

Mr. Hodge: Out on the end of this track (indicating).

Examiner Burchmore: And between Danville and Shady
4529 those tracks have been removed?

Mr. Hodge: Yes, sir.

Examiner Burchmore: Then the other division of your road runs from a connection with the Louisiana & Northwest at Bienville in a generally northerly direction to Walsh?

Mr. Hodge: No, that is westerly.

Examiner Burchmore: And it is projected east to Danville?

Mr. Hodge: Yes, sir, southeast to Danville. It is laid to Liberty Hill. They are laying the track betwen Danville and Walsh.

Examiner Burchmore: I see you have Danville, a station on your present line, and also a place known as Danville on the proposed line which is under construction. Are those two different places?

Mr. Hodge: No, those are the same place.

Examiner Burchmore: Then the two lines will connect?

Mr. Hodge: Yes, sir, they are graded.

Examiner Burchmore: Do you desire to offer this in evidence?

Mr. Walter: Yes.

(The map so offered and identified, was received in evidence and thereupon marked North Louisiana & Gulf Exhibit No. 1, Witness Hodge, received in evidence January 24, 1911, and is attached hereto.

4530 Examiner Burchmore: Who owns this railroad?

Mr. Hodge: The stockholders of the North Louisiana & Gulf.

Examiner Burchmore: Are they officers and stockholders of any other institution?

Mr. Hodge: Yes, sir, in the Huie-Hodge Lumber Company.

Examiner Burchmore: The stockholders of the two companies are identical?

Mr. Hodge: Yes, sir.

Examiner Burchmore: Are the officers the same?

Mr. Hodge: No, sir, they are not.

Examiner Burchmore: The same president?

Mr. Hodge: No, sir, they are not the same.

Examiner Burchmore: The officers are entirely different?

Mr. Hodge: No, not altogether; some are and some are not.

Examiner Burchmore: State what officers are common?

Mr. Hodge: The Secretary is the same in the lumber company as in the railroad company; I think that is all.

Examiner Burchmore: Referring first to the line that connects with the Rock Island at Hodge, where are the saw mills located on that line?

Mr. Hodge: There is one located at Hodge.

Examiner Burchmore: Right at Hodge?

Mr. Hodge: Yes.

4531 Examiner Burchmore: What distance from the Rock Island rails?

Mr. Hodge: Just a very short distance.

Examiner Burchmore: A few hundred feet.

Mr. Hodge: Not more than that.

Examiner Burchmore: Any other saw mill on that line?

Mr. Hodge: There is a saw mill at Danville.

Examiner Burchmore: That is ten miles away?

Mr. Hodge: Yes, sir.

Examiner Burchmore: At the other end of the same line?

Mr. Hodge: Yes, sir.

Examiner Burchmore: When was the line from Hodge to Danville constructed?

Mr. Hodge: I don't know exactly; it was prior to my connection with the company, but I think it was in the years between 1903 and 1906, at the time it was incorporated.

Examiner Burchmore: Had there previously been any mill at Danville?

Mr. Hodge: Before the construction of the road?

Examiner Burchmore: Yes.

Mr. Hodge: No, sir.

Examiner Burchmore: Had there previously been any mill at Hodge?

4532 Mr. Hodge: Yes, sir.

Examiner Burchmore: For what length of time?

Mr. Hodge: The mill was built there in 1900.

Examiner Burchmore: And some railroad was built immediately?

Mr. Hodge: The Arkansas Southern, which is the Rock Island now.

Examiner Burchmore: No, but when the mill was opened up at Hodge, did they not at the same time put in a short logging road of some character?

Mr. Hodge: Yes, sir.

Examiner Burchmore: And that developed into this railroad through successive stages?

Mr. Hodge: Yes, sir.

Examiner Burchmore: When was this railroad incorporated?

Mr. Hodge: In 1906.

Examiner Burchmore: Are you able to give the month?

Mr. Hodge: I can give it right here (referring to annual report). January 22nd, 1906.

Examiner Burchmore: The entire line from Hodge to Danville was then in operation?

Mr. Hodge: Yes.

4533 Examiner Burchmore: Did the line then extend as far as Shady?

Mr. Hodge: It did. Now I say at that time; I do not know whether it did or not; I was not connected with the line.

Examiner Burchmore: But at one time the line from Danville to Shady was operated by this corporation?

Mr. Hodge: Yes, sir.

Examiner Burchmore: When was the line out of Bienville constructed?

Mr. Hodge: I don't know when it was constructed; it was somewhere about 1907, I think, it was bought by the lumber company.

Examiner Burchmore: When was it acquired by this lumber company.

Mr. Hodge: In 1909.

Examiner Burchmore: Then the Huie-Hodge Lumber Company bought this railroad extending eastward from Bienville in 1909?

Mr. Hodge: Yes, sir.

Examiner Burchmore: From whom did they purchase it?

Mr. Hodge: From the D. C. Richardson-Taylor Lumber Company or their receiver.

Examiner Burchmore: Was there then a mill in existence
4534 on that line?

Mr. Hodge: Yes, sir.

Examiner Burchmore: Where?

Mr. Hodge: At Bienville.

Examiner Burchmore: How close to the tracks of the Louisiana & Northwest Railroad?

Mr. Hodge: A short distance, a few hundred feet.

Examiner Burchmore: Any other mill on that line?

Mr. Hodge: You mean on the North Louisiana & Gulf?

Examiner Burchmore: Yes?

Mr. Hodge: No.

Examiner Burchmore: That mill was also owned by the D. C. Richardson-Taylor Company?

Mr. Hodge: Yes, sir.

Examiner Burchmore: That company was in bankruptcy?

Mr. Hodge: Yes, sir.

Examiner Burchmore: What sent them into bankruptcy, do you know?

Mr. Hodge: I do not know.

Examiner Burchmore: Was their railroad incorporated as a common carrier?

Mr. Hodge: No.

Examiner Burchmore: Were they getting any divisions?
4535 Mr. Hodge: I don't know.

Examiner Burchmore: What do you think about it?

Mr. Hodge: All I know is that they had a charter or had commenced to get a charter for the road known as the Bienville & Quitmann, and I do not know whether they ever have got it or not, or got any division or not.

Examiner Burchmore: You do not know what it was that sent them into bankruptcy?

Mr. Hodge: Well, I have heard.

Examiner Burchmore: Tell us what you have heard.

Mr. Hodge: The Richardson-Taylor Lumber Company operated a number of plants and owed a good deal on their property in the fall of 1907, and were not able to meet their obligations when they came due, and a receiver took charge of it.

Examiner Burchmore: Their failure was not due to the fact that they were unable to compete with other lumber companies who were receiving divisions, whereas they were not?

Mr. Hodge: I think not. They had mills in different places over the country, some in Mississippi and some in Louisiana.

Examiner Burchmore: The Huie-Hodge Lumber Company acquired the division of railroad running out of Bienville and the mill at Bienville at the same time and in the same transaction?
4536 Mr. Hodge: Yes, sir.

Examiner Burchmore: And then sold the railroad to the North Louisiana & Gulf.

Mr. Hodge: Yes, sir.

Examiner Burchmore: What was the consideration which passed between the Huie-Hodge Lumber Company and the North Louisiana & Gulf Railroad?

Mr. Hodge: The consideration was an exchange of the track which was built from Danville to Shady for the other track; the lumber company wanted to use that for logging purposes and it was just a matter of exchange; the mileage was about the same, and the railroad company wanted to make the connection from Danville to Walsh.

Examiner Burchmore: The railroad had previously owned the line from Danville to Shady?

Mr. Hodge: Yes, sir.

Examiner Burchmore: And they gave it to the lumber company?

Mr. Hodge: Part of it from Danville to Shady, all the railroad from Danville to Shady.

Examiner Burchmore: And obtained in return this new road?

Mr. Hodge: Yes, sir.

4537 Examiner Burchmore: A very short time after that the line from Danville to Shady was taken up?

Mr. Hodge: Yes, sir.

Examiner Burchmore: What became of it?

Mr. Hodge: I say a short time; it was used a good while for logging purposes by the lumber company and moved to some other place, a logging spur.

Examiner Burchmore: And the track is now somewhere in the woods in the shape of logging track?

Mr. Hodge: I think so, yes, sir.

Examiner Burchmore: What was the purpose of the incorporation of the North Louisiana & Gulf Railroad Company?

Mr. Hodge: Well, we thought—the purpose was to perform the services of a railroad and we thought we had an opportunity to develop it into a paying proposition.

Examiner Burchmore: How many locomotives has the North Louisiana & Gulf?

Mr. Hodge: Five.

Examiner Burchmore: Where are they at work or where are they placed?

Mr. Hodge: One of them is on the Bienville Division and there are four on the Hodge Division. The lumber company uses two of the locomotives.

4538 Examiner Burchmore: What do they pay for those two locomotives?

Mr. Hodge: They pay a rental for the locomotives for a haul of 25 cents a thousand.

Examiner Burchmore: What cars does the North Louisiana & Gulf own?

Mr. Hodge: They own, I think, about 70 logging cars and six box cars, and six or seven flat cars and one combination car.

Examiner Burchmore: Where are those cars running?

Mr. Hodge: They run between Hodge and Danville and between Walsh and Bienville.

Examiner Burchmore: Part of them on one division and part on the other?

Mr. Hodge: Yes, sir.

Examiner Burchmore: What is the capitalization of this railroad?

Mr. Hodge: The authorized capital is one and one-half million dollars.

Examiner Burchmore: What is the outstanding capital?

Mr. Hodge: $200,000.

Examiner Burchmore: Was that issued for cash?

Mr. Hodge: The railroad was built by the lumber com-
4539 pany and was sold to the railroad company for the consideration of $200,000. It was not paid first when the road was organized, but was afterwards paid for in cash.

Examiner Burchmore: You mean cash was actually paid into the treasury of this railroad for its stock?

Mr. Hodge: Yes, sir.

Examiner Burchmore: Or was it a bookkeeping transaction?

Mr. Hodge: It was paid in money.

Examiner Burchmore: And then was it paid out to the lumber company for the railroad?

Mr. Hodge: Yes, sir.

Examiner Burchmore: What was the cost of that railroad, the southern division?

Mr. Hodge: It was sold for $200,000. The actual cost of construction I do not know. It was before I went there and I do not know.

Examiner Burchmore: What was the mileage of that division?

Mr. Hodge: 13 miles; it is ten miles to Danville now.

Examiner Burchmore: It cost them 13 miles, $200,000——

Mr. Hodge: That included equipment too, in the consideration.

Examiner Burchmore: What was the value of the equipment?

Mr. Hodge: I don't know what it was. They just took
4540 the whole thing in one transaction.

Examiner Burchmore: It cost, say, $12,000 a mile.

Mr. Hodge: Something like that.

Examiner Burchmore: Has it ever paid any dividends?

Mr. Hodge: No.

Examiner Burchmore: Any surplus?

Mr. Hodge: Well, it has been about a break; there was a year or two they had a little surplus and then there was a year that was a loss.

Examiner Burchmore: How many train crews have you?

Mr. Hodge: We have one regular crew.

Examiner Burchmore: And the lumber company has two?

Mr. Hodge: Yes, sir—I don't know how many the lumber company have; you mean to operate the train—Yes, they have two on each division.

Examiner Burchmore: You cannot run one locomotive with two

crews, and yet I understood you to say you had one locomotive on each division for train service.

Mr. Hodge: The lumber company operates that locomotive on the Bienville Division; that is temporary, however, on account of the connection we are putting in there.

Examiner Burchmore: How many track crews have you, section gangs?

4541 Mr. Hodge: Two or three.

Examiner Burchmore: And a large number of employés engaged in construction?

Mr. Hodge: Yes.

Examiner Burchmore: Any general office employés?

Mr. Hodge: Yes, sir.

Examiner Burchmore: Who are they?

Mr. Hodge: Well, there is a president and superintendent and an auditor.

Examiner Burchmore: And do they also work for the lumber company ?

Mr. Hodge: Part of them do; the auditor does not; all do but the auditor.

Examiner Burchmore: Do you run any passenger or mixed trains?

Mr. Hodge: One mixed train.

Examiner Burchmore: One mixed train on the southern division?

Mr. Hodge: Yes, sir.

Examiner Burchmore: Have you a time table?

Mr. Hodge: Yes, sir.

Examiner Burchmore: Published time card?

4542 Mr. Hodge: Yes, sir. We did have one. I haven't one with me.

Examiner Burchmore: Do you meet the Rock Island trains?

Mr. Hodge: Yes, sir.

Examiner Burchmore: Carry passengers?

Mr. Hodge: Yes, sir.

Examiner Burchmore: How many passengers, and what is the extent of your passenger traffic?

Mr. Hodge: Last year, that is by the last annual report, we carried 3200 passengers, and the revenue was about $800.

Examiner Burchmore: Do you carry the mail?

Mr. Hodge: Yes, sir.

Examiner Burchmore: Any express matter?

Mr. Hodge: No express.

Examiner Burchmore: You have joint through rates with the Rock Island on lumber?

Mr. Hodge: Yes, sir, on lumber.

Examiner Burchmore: And on any class rates?

Mr. Hodge: No, sir.

Examiner Burchmore: Do you have any joint through rates with the Louisiana & Northwest?

Mr. Hodge: On lumber.

Examiner Burchmore: Do you publish any local rates or fares, and file them with the Interstate Commerce Commission?

4543 Mr. Hodge: Yes, sir.

Examiner Burchmore: You are also a party to tariffs published by other railroads?

Mr. Hodge: Yes, sir, on lumber rates.

Examiner Burchmore: When did the Rock Island first join in joint rates with your company?

Mr. Hodge: I think in 1906.

Examiner Burchmore: When did the Louisiana & Northwest establish joint rates with your company?

Mr. Hodge: I think in 1909. I think it was about the time we bought the property or close to that time.

Examiner Burchmore: Can you inform us with respect to the extent and nature of your freight traffic for the past fiscal year?

Mr. Hodge: Yes, sir, I think I can. The revenue from freight was $33,433.90 and passengers $790.45 and other transportation revenue $399.91.

Examiner Burchmore: What does that last item cover?

Mr. Hodge: Other transportation revenue.

Examiner Burchmore: Is that for hauling logs?

Mr. Hodge: No, sir, that is for mail. I am giving this as it is given to the Commission in the monthly reports.

Examiner Burchmore: But you received $399.00 from the

4544 United States for handling the mail?

Mr. Hodge: I think that item is all covered by the mail. I am not sure about it, but I think it is mostly, if not all.

Examiner Burchmore: What was your total operating revenue for that year?

Mr. Hodge: $34,604.45.

Examiner Burchmore: Is that a great increase over the previous year?

Mr. Hodge: Yes, sir. From July, 1908, to June, 1909, the revenue was $17,698.21.

Examiner Burchmore: What were your operating expenses for the period last referred to?

Mr. Hodge: $23,926.20.

Examiner Burchmore: Then you had a deficit for that period?

Mr. Hodge: Yes, sir.

Examiner Burchmore: How about the present year or last year?

Mr. Hodge: We had a gain last year of $5,099.57.

Examiner Burchmore: Your operating expenses were how much?

Mr. Hodge: $29,504.94.

Examiner Burchmore: And the present year promises to be equally profitable?

Mr. Hodge: I think so.

4545 Examiner Burchmore: Do you sell any tickets to your passengers?

Mr. Hodge: Well, we collect the fare.

Examiner Burchmore: You collect it on the train?

Mr. Hodge: Yes, sir.

Examiner Burchmore: Have you any agents that could sell tickets?

Mr. Hodge: Yes, sir, we have sold tickets at times; I do not think we are selling them now.

Examiner Burchmore: Where are your agents?

Mr. Hodge: We have a joint agent at Hodge and also at Bienville.

Examiner Burchmore: Those are joint agents, you mean, with the other railroad?

Mr. Hodge: Yes, sir.

Examiner Burchmore: You pay half their expenses?

Mr. Hodge: We pay half their expenses and the Rock Island pays half.

Examiner Burchmore: Have you any contract with the Rock Island Railroad with regard to that joint station at Hodge?

Mr. Hodge: Yes, sir.

Examiner Burchmore: Are you familiar with the terms of that contract?

4546 Mr. Hodge: Well, I think I am fairly familiar.

Examiner Burchmore: Do you recognize the following clause as being in that contract: "It is to the advantage and interest of both parties hereto, meaning the Rock Island Railroad and the North Louisiana & Gulf, that a depot and station be opened at said Village of Hodge, to be maintained so long as the operation of the saw mill plant of the said Hodge Lumber Company shall continue?"

Mr. Hodge: I think that is in the contract.

Examiner Burchmore: Does that evidence any intention to move the depot when the saw mill ceases to operate?

Mr. Dodge: I don't know; I think that was more to protect the Rock Island Company than with the intention of moving the depot. The North Louisiana & Gulf Railroad Company paid for the construction of the depot.

Mr. Walter: Is that between the two railroads, or between the lumber company and the railroad?

Mr. Hodge: Between the two railroads.

Examiner Burchmore: Will you file a copy of that contract? We have not a copy of it.

Mr. Hodge: I thought we had filed that with you. We can do it.

4547 Mr. Walter: Yes, we will file a copy. I was asking for information.

Examiner Burchmore: I have a memorandum which indicates it was between the two railroads.

Mr. Hodge: It is between the two railroads.

Mr. Walter: We will file it.

Examiner Burchmore: Another provision of this contract is noted on this memorandum as follows, and I ask you if you recognize it: "Upon written request of the North Louisiana Company, the Rock Island Company will transfer any of the joint employees at said station who are unsatisfactory to the North Louisiana Company." Do you recall that provision in the contract?

Mr. Hodge: I think it is in it.

Examiner Burchmore: Then the Rock Island Railroad, as a matter of fact, hires the agent there, and you participate in his salary?

Mr. Hodge: Yes, sir; that is, they reserve that right in the contract. However, we have about as much to do with hiring him as the Rock Island, and there has been no friction with them on that account.

Examiner Burchmore: Do you have any other contract with the Rock Island?

4548 Mr. Hodge: Yes, sir, we have a steel contract, for leasing of steel rails.

Examiner Burchmore: Is that contract filed with the Commission?

Mr. Hodge: I do not know whether it is or not.

Examiner Burchmore: I will request that a copy be filed in connection with this case, unless you find you have already filed one with the Commission, in which event you can call attention to your previous letter submitting it.

Mr. Hodge: Yes.

Examiner Burchmore: Are you conversant with the terms of that contract?

Mr. Hodge: Yes, sir, fairly so.

Examiner Burchmore: Describe it in a general way.

Mr. Hodge: It is simply a contract leasing to us about 12½ miles of steel rails for a term of ten years, with the valuation in the contract, I forget what the steel is valued at; and it is to pay five per cent interest on the total amount.

Examiner Burchmore: Was that new steel?

Mr. Hodge: No.

Examiner Burchmore: Re-laying rail.

Mr. Hodge: Yes, sir.

4549 Examiner Burchmore: And is there any privilege by which you can turn back the rail at any time?

Mr. Hodge: Yes, sir, we can either buy it or turn it back.

Examiner Burchmore: Then I presume you would not sustain a great loss if you took up the railroad and abandoned operations?

Mr. Hodge: Not that particular part of it, but that is only a part of the rail.

Examiner Burchmore: Do you own the right of way on which you built?

Mr. Hodge: Yes, sir.

Examiner Burchmore: In fee simple?

Mr. Hodge: Yes, sir.

Examiner Burchmore: Did you acquire any of it by condemnation?

Mr. Hodge: Yes, sir.

Examiner Burchmore: I am referring now to the Southern Division.

Mr. Hodge: No, I do not know about the Southern Division. This connection between Hodge and Walsh, we had expropriation suits for the right of way to secure some of it that way.

Examiner Burchmore: But the other questions I asked you had in mind the Hodge Division?

4550 Mr. Hodge: Yes, sir.

Examiner Burchmore: As to the re-laying rail.

Mr. Hodge: No, it is not on the Hodge Division, it is on the Bienville Division, this Rock Island rail.

Examiner Burchmore: Then you have just recently gotten that rail?

Mr. Hodge: From the Rock Island?

Examiner Burchmore: Yes.

Mr. Hodge: It was rail that the Rock Island had turned over to the Bienville & Quitman or the D. C. Richardson-Taylor people, and when we bought that property the rail was there.

Examiner Burchmore: And this is rail which you inherited?

Mr. Hodge: Well, we made another contract with them after the purchase.

Examiner Burchmore: Did the D. C. Richardson-Taylor Lumber Company propose to build across there from their mill to a connection with the Rock Island?

Mr. Hodge: I think so.

Examiner Burchmore: And their intention was not to connect with your road?

Mr. Hodge: No, sir.

Examiner Burchmore: And your company, I mean your lumber company, when it acquired the property up there, changed

4551 the course of that extension so as to connect with your own former line?

Mr. Hodge: Yes, sir.

Examiner Burchmore: Do you know what the purpose of that extension from the mill on the Louisiana & Northwest across to the Rock Island was?

Mr. Hodge: I don't understand.

Engineer Burchmore: What was the purpose to be effected by that extension?

Mr. Hodge: There were several purposes. We thought to have a connection with more than one road would be to our advantage, and we went through a country that was pretty good farming country and it gave us several advantages.

Examiner Burchmore: In what ways would that double connection be to your advantage?

Mr. Hodge: Well, it gives us an opportunity to handle our outbound freight and inbound freight to better advantage.

Examiner Burchmore: Does it give you any better basis of divisions?

Mr. Hodge: We hope it will; I do not know that it will.

Examiner Burchmore: Is there any negotiation now under way between your company and the Rock Island looking to the execution of a contract or agreement of any kind?

4552 Mr. Hodge: No, sir.

Examiner Burchmore: I will ask you with respect to the

joint rates on lumber over your line in connection with the Rock Island. Are those rates on a milling in transit basis?

Mr. Hodge: They are.

Examiner Burchmore: And apply from Danville to interstate destinations?

Mr. Hodge: Yes, sir; that is on the Danville Division.

Examiner Burchmore: I am asking with respect to that division. Then the lumber that you turn over to the Rock Island is billed as having originated at Danville and not at Hodge?

Mr. Hodge: Yes.

Examiner Burchmore: Yet your mill is at Hodge.

Mr. Hodge: Yes.

Examiner Burchmore: Is there any billing covering the inbound movement of logs to the mill?

Mr. Hodge: No.

Examiner Burchmore: Who handles those logs to the mill, describe the course through which they pass.

Mr. Hodge: They are delivered to the railroad company at Danville, and they haul them to Hodge, and they are milled in transit there and the lumber is loaded and re-shipped.

4553 Examiner Burchmore: The Huie-Hodge Lumber Company has some private tram road up in the woods connecting with that division?

Mr. Hodge: Yes, sir.

Examiner Burchmore: They load the logs on cars belonging to the railroad company?

Mr. Hodge: Yes, sir.

Examiner Burchmore: And with the engines which they lease from the railroad company, they haul those logs to Danville?

Mr. Hodge: Yes, sir.

Examiner Burchmore: What engine hauls them from Danville down to Hodge?

Mr. Hodge: The North Louisiana & Gulf engine hauls them from there, with the North Louisiana & Gulf crew.

Examiner Burchmore: Not the same engines which brought the logs from the woods?

Mr. Hodge: No, sir.

Examiner Burchmore: Is there any billing covering that movement into the mill?

Mr. Hodge: Of the logs?

Examiner Burchmore: Yes.

Mr. Hodge: No.

Examiner Burchmore: Does the conductor make any re
4554 port to the mill?

Mr. Hodge: Yes, sir, he makes a daily report of the number of cars.

Examiner Burchmore: Any station at Danville?

Mr. Hodge: Yes, sir; you mean a depot?

Examiner Burchmore: Anything there except a spot?

Mr. Hodge: There is a saw mill there.

Examiner Burchmore: You have two saw mills?

Mr. Hodge: We have three, one at Hodge, one at Danville and one at Bienville, that is, the lumber company has.

Examiner Burchmore: Is the lumber which is sawed at Danville planed at Hodge?

Mr. Hodge: Yes, sir.

Examiner Burchmore: No planer at Danville?

Mr. Hodge: No, sir.

Examiner Burchmore: Then as a matter of fact all your timber does stop and go through some process at Hodge?

Mr. Hodge: Not all of it. Some of it is shipped rough and is not dressed. This applies especially to hardwood.

Examiner Burchmore: Now take a carload of logs which has moved from the woods in the manner you have described and is there cut up into rough lumber and dressed or not dressed, as the case may be, what compensation does this railroad receive
4555 for the haul to the mill at Hodge?

Mr. Hodge: They receive a part of the through rate on the milling in transit rate.

Examiner Burchmore: And nothing additional?

Mr. Hodge: And nothing additional.

Examiner Burchmore: What service do they perform in connection with the outbound movement of lumber from that mill?

Mr. Hodge: Some of it they switch on the track around to the connecting track of the Rock Island and some of it they haul from the Danville mill.

Examiner Burchmore: I am speaking now of the Hodge mill. Does the Rock Island ever pick up the cars of the Hodge mill itself.

Mr. Hodge: Yes.

Examiner Burchmore: Does it usually do that?

Mr. Hodge: Well, part of the time, I guess about half.

Examiner Burchmore: Then sometimes the Rock Island Railroad places the empty car at the mill and sometimes takes away the loaded car?

Mr. Hodge: Yes.

Examiner Burchmore: And sometimes, about as often as not, it is the North Louisiana & Gulf Railroad which places such
4556 empty cars and takes away the loaded cars?

Mr. Hodge: Yes, sir.

Examiner Burchmore: In the case however of the Danville mill, all the empty cars are hauled to the mill by the North Louisiana & Gulf, and all the loaded cars are loaded from the mill at Danville and turned over to the Rock Island at Hodge?

Mr. Hodge: Yes, sir.

Examiner Burchmore: What is the division accorded by the Rock Island to this road?

Mr. Hodge: It ranges from one and one-half cents to four cents.

Examiner Burchmore: What is your prevailing division

Mr Hodge: I do not know, I guess it would average about three cents.

Examiner Burchmore: Do you think that is an adequate division?

Mr. Hodge: Well, I don't know, it does not show very well for

year before last, but then we were at considerable expense; I think it is only reasonable.

Examiner Burchmore: Are you satisfied with that division?

Mr. Hodge: No, sir.

Examiner Burchmore: What makes you dissatisfied with it?

Mr. Hodge: Well, I think if we can get other improve-
4557 ments on our road—this service performed by our road is enough, I think, to demand a little more than that rate.

Examiner Burchmore: You would be satisfied with that division, would you not, if no one else got any more, that is to say, does not your dissatisfaction arise out of the fact that you have knowledge of other short line railroads similarly situated or which you think are similarly situated, which get four or five cents where you get three?

Mr. Hodge: We try to get all we can.

Examiner Burchmore: You heard the testimony in this last case that we took, the El Dorado & Wesson?

Mr. Hodge: I heard part of it.

Examiner Burchmore: You heard they got four and five cents?

Mr. Hodge: No, I did not hear that. I was not in there all the time.

Examiner Burchmore: Do you think it is fair for the Rock Island to pay them four or five cents and only three or four cents to you?

Mr. Hodge: That depends on circumstances, upon the cost of construction of the road and the service performed in different ways, I think.

Examiner Burchmore: Does not the Edgar Lumber Com-
4558 pany, which receives a division of five cents, have quite a substantial advantage over the Huie-Hodge Lumber Company, receiving three or four cents when it comes to selling lumber in a very close market.

Mr. Hodge: I don't consider that has anything to do with it. The Edgar Lumber Company is running a mill, and the El Dorado & Wesson is a railroad, and they perform a certain service and they have money invested in a railroad, I suppose, with the understanding, or at least an attempt to make a reasonable rate on the investment, and it depends altogether on the investment from a railroad standpoint.

Examiner Burchmore: Your capitalization is a good deal greater than the El Dorado & Wesson's capitalization?

Mr. Hodge: Do you mean the paid in capital or the authorized capital?

Examiner Burchmore: The authorized certainly is, and I thought the paid in was about the same.

Mr. Hodge: I don't know what the paid in was.

Examiner Burchmore: Well, this railroad and lumber company are Siamese twins like the corporations we heard of this morning?

Mr. Hodge: They are very closely connected.

Examiner Burchmore: You suggest that the amount of the
4559 investment might justify a difference in the amount of the divisions, as I understood your answer.

Mr. Hodge: Partly so, and the service too, which you have to render.

Examiner Burchmore: Suppose we assume that the El Dorado & Wesson pays a dividend of seven per cent, earns seven per cent on its investment, and gets a division of five cents and it is owned in a substantial sense by the Edgar Lumber Company; now, suppose your company, which controls the North Louisiana & Gulf only receives a dividend of say four or three per cent——

Mr. Hodge: Do you mean a division or a dividend?

Examiner Burchmore: A dividend on its stock in the North Louisiana & Gulf, or suppose, as seems to be the fact, that the North Louisiana & Gulf with its division of only three cents, is not able to pay any dividend at all; would not your lumber company be at a substantial disadvantage in the market in the sale of lumber?

Mr. Hodge: The lumber company?

Examiner Burchmore: Yes.

Mr. Hodge: No, I do not see how they could be; I do not see how they could be at all. The railroad company would be
4560 at a disadvantage from an operating standpoint if some other railroad—that is, they could not make the showing on the investment. Mr. Edgar might manage his road in a way to make more, and from the cost of operation, than we do or something of that kind.

Examiner Burchmore: That suggests this sort of a question. Suppose the North Louisiana & Gulf Railroad, which is substantially controlled by the Huie-Hodge Lumber Company, was receiving an extremely liberal division of nine or ten cents or a very large amount so it was making a great deal of money on its investment; and suppose the Huie-Hodge Lumber Company had an opportunity to sell a very large volume of lumber at a price which would enable it just to break even on the cost of cutting and the value of the log, and the Huie-Hodge Lumber Company could well afford to sell that lumber at an even break without any profit and look to the earnings from its stock in the railroad to make the transaction profitable to it, could it not?

Mr. Hodge: Well, I think the rate could be made high enough to appear as a rebate. On the other hand it is every man's right to make the best investment he can, and since the two companies are separate in their incorporated capacity I cannot see from an
4561 incorporated standpoint, how the relation could exist in any other way.

Examiner Burchmore: Perhaps I have allowed the question to drift into the line of argument rather than confining it to questions of fact. We have not asked about the North line, the Bienville Division. What allowances does the Louisiana & Northwest Railroad make to you on lumber?

Mr. Hodge: Two cents.

Examiner Burchmore: A straight two cents?

Mr. Hodge: Yes, sir.

Examiner Burchmore: To practically all points?

Mr. Hodge: Yes, sir.

Examiner Burchmore: Is there a full line of rates in over that division?

Mr. Hodge: You mean on lumber?

Examiner Burchmore: Yes.

Mr. Hodge: You mean can we reach all territory?

Examiner Burchmore: Yes.

Mr. Hodge: Well, no. We can reach most, but not all.

Examiner Burchmore: And what is the manner of conducting transportation on that division, similar to the Southern Division?

Mr. Hodge: Yes, sir.

4562 Examiner Burchmore: In other words, the railroad company hauls the logs to the mill?

Mr. Hodge: Yes, sir, and the lumber is billed from Walsh, the point of origin of the logs, and milled in transit.

Examiner Burchmore: Who handles the loaded lumber from the mill to the Louisiana & Northwest?

Mr. Hodge: It is about the same as the other; it is handled by the North Louisiana & Gulf to the switch track and there is switched around.

Examiner Burchmore: What is the usual length of haul of the logs up there?

Mr. Hodge: It is about four miles

Mr. Walter: You say you are connecting up the two divisions?

Mr. Hodge: Yes, sir.

Mr. Walter: When will the steel be laid and in condition for operation through from Bienville to Hodge?

Mr. Hodge: In about 60 to 90 days.

Mr. Walter: Along the line of railroad between Bienville and Hodge, do you have other shippers than those connected with or identical with the Huie-Hodge Lumber Company?

Mr. Hodge: Yes, sir, we have other shippers.

4563 Mr. Walter: Just name those shippers and state what they ship and approximately the amounts?

Mr. Hodge: In building our connection between Walsh and Danville we pass through a town called Liberty Hill. There are several stores there. Our steel is laid there now, and there will be shipments of cotton and merchandise from there.

Mr. Walter: Any agricultural or producing region around Liberty Hill?

Mr. Hodge: Yes, sir it is a good farm country and a fair average for the state

Mr. Walter: Do you have any other shippers of forest products along your line other than the Huie-Hodge Lumber Company?

Mr. Hodge: Yes, sir, there are a number of other shippers who have been shipping over our road.

Mr. Walter: What do they ship?

Mr. Hodge: Staves, stave bolts and ties.

Mr. Walter: Is there a salt mill or mine along your line?

Mr. Hodge: Yes, sir, there is a company putting in a salt factory.

Mr. Walter: What is the name of that concern?

Mr Hodge: The Central Salt & Mining Company, I believe is the name of it.

4564 Mr. Walter: About what output do they have or will they have when they got into operation?

Mr. Hodge: About three cars a day.

Mr. Walter: Are they now operating?

Mr. Hodge: No, sir.

Mr. Walter: I believe the proprietor of that concern testified at the New Orleans hearing, did he not?

Mr. Hodge: Yes, sir.

Mr. Walter: He explained the track and arrangement he had with the railroad?

Mr. Hodge: Yes, sir.

Mr. Walter: Is there a cotton gin at Liberty Hill?

Mr. Hodge: Yes, sir.

Mr. Walter: How many people would you say, speaking approximately, live between Hodge and Bienville that could or would be served by your line of road?

Mr. Hodge: I would have to guess at that.

Mr. Walter: Well, just an approximate rough guess.

Mr. Hodge: I would say from 2,000 to 6,000 or 5,000, something like that.

Mr. Walter: Have you ever exercised the right of eminent domain?

Mr. Hodge: Yes, sir.

4565 Mr. Walter: Was there any litigation in the court?

Mr. Hodge: Yes, sir.

Mr. Walter: Was that carried to the Appellate Court?

Mr. Hodge: It was.

Mr. Walter: Did that involve your existence as a common carrier?

Mr. Hodge: It did.

Mr. Walter: Was there an opinion handed down by the Appellate Court?

Mr. Hodge: Yes, sir.

Mr. Walter: We offer that opinion as an exhibit in this case, in that it was held by the Appellate Court, the Court of last resort for that case, that the North Louisiana & Gulf was a common carrier, and as such entitled to condemn property for its use.

Examiner Burchmore: A common carrier under what law?

Mr. Walter: Under the laws of the State of Louisiana, the only law applicable to that case.

(The paper so offered and identified, was received in evidence and thereupon marked North Louisiana & Gulf Exhibit No. 2, Witness Hodge, received in evidence January 24, 1911, and is attached hereto.)

4566 Mr. Walter: In that contract with the Rock Island for the rental of the steel rails, can you state whether or not there was a tying up of the tonnage of the North Louisiana & Gulf to the Rock Island?

Mr. Hodge: There was not.

Mr. Walter: There was a straight out and out rental of rails for a money consideration?

Mr. Hodge: Yes, sir.

Mr. Walter: And no other consideration?

Mr Hodge: No, sir

Mr. Walter: Do you carry for any and all that offer?

Mr. Hodge: Yes, we do.

Mr. Walter: You charge the published tariff rates whether state or interstate?

Mr. Hodge: Yes, sir.

Mr. Walter: Has the State Railroad Commission of Louisiana exercised jurisdiction over your line as a common carrier?

Mr. Hodge: They have.

Mr. Walter: Prescribing rates?

Mr. Hodge: They have.

Examiner Burchmore: Has the Interstate Commerce Commission ever entered any order against your company?

Mr. Hodge: None that I know of.

4567 Mr. Walter: And you hope it won't.

Mr. Hodge: Yes.

Examiner Burchmore: I meant in the exercise of its jurisdiction over the reasonableness of rates.

Mr. Walter: Has there ever been any complaint before the Interstate Commerce Commission that your rates were unreasonable as applied to interstate transportation?

Mr. Hodge: None that I know of.

Mr. Walter: Can you state whether or not your property as railroad property is exempt from taxation and is so recognized by the State Board of Appraisers of the State of Louisiana?

Mr. Hodge: It is.

Examiner Burchmore: Your railroad gets a division out of joint rates with the Rock Island which, we might say, averages three or four cents?

Mr. Hodge: Yes, sir.

Examiner Burchmore: It comes out about even in its operations with that source of income?

Mr. Hodge: It has in the past; we think with the new connections and with the new territory which we are going to serve we will be able to make a little money.

4568 Examiner Burchmore: You are an officer of the lumber company?

Mr. Hodge: I am.

Examiner Burchmore: Now I ask you as an official of the lumber company and wholly disregarding your relation to the railroad, suppose the Rock Island Railroad should cut down the division that it accords to the North Louisiana & Gulf to two cents, and instead of paying three or four cents would refuse to pay more than two cents, would you as a lumber enmployee or officer feel that your interests were in any way injured?

Mr. Hodge: I think not, no, sir.

Examiner Burchmore: What would be the result of that reduction of divisions?

Mr. Hodge: It would simply decrease the revenue of the railroad.

Examiner Burchmore: It would decrease the revenue of the railroad, and I presume as the railroad has been breaking even, it would mean that the railroad would accumulate a deficit every year?

Mr. Hodge: Well, that would be true as it has been operated the last three or four years.

Examiner Burchmore: You mean without any increase of
4569 tonnage?

Mr. Hodge: Yes, sir.

Examiner Burchmore: We will assume it keeps right on in the same way without any increase in tonnage and its division is so decreased by the Rock Island from four cents to two cents, and it earns only half as much on the lumber that it interchanges with the Rock Island. Now the result will be that instead of a small profit each year or breaking even, there will be a deficit and the operating expenses will exceed the operating income, or at least we should assume that that would happen. Where would this railroad get the money to meet its indebtedness?

Mr. Hodge: It would have to do the same as any other, I suppose. If the concern has not got money enough to pay its outstanding obligations it will have to make some other arrangements or secure the money in some other way.

Examiner Burchmore: In what other way could they secure this money?

Mr. Hodge: They might be able to extend the road farther and increase their revenue.

Examiner Burchmore: They might raise some other rates, that is what the trunk lines do.

Mr. Hodge: They might do that.

4570 Examiner Burchmore: They might make a charge for hauling the logs into the mill?

Mr. Hodge: Yes, they might do that.

Examiner Burchmore: Well, what else could they do?

Mr. Hodge: I don't know what else they could do.

Examiner Burchmore: They might charge the deficit against the stockholders in some way.

(No reply.)

Mr. Walter: What is the answer to that?

(Question read.)

Mr. Hodge: I don't know just how they would handle that.

Examiner Burchmore: Does this railroad charge anything for the logs hauled?

Mr. Hodge: No, sir.

Examiner Burchmore: Well, they could charge something, could they not?

Mr. Hodge: Sure.

Examiner Burchmore: And as business men they would charge something, if they had to, in order to make a living?

Mr. Hodge: If they had to, they would.

Examiner Burchmore: Then if they did make a charge for the log haul, of course it would hit the lumber company directly, would it not?

4571 Mr. Hodge: It would cost the lumber company more.

Examiner Burchmore: It would increase the cost of the lumbering operations if that thing were done?

Mr. Hodge: Yes, sir.

Examiner Burchmore: We have several ifs in that.

Mr. Hodge: I understand.

Mr. Walter: Wherever there is a shipper of lumber on the line of one of these short roads similarly situated as your own line of railroad, those shippers are given the same rate to markets of destination, are they not?

Mr. Hodge: Yes, sir.

Mr. Walter: It extends the blanket rate?

Mr. Hodge: Yes, sir.

Mr. Walter: There are a number of argumentative questions which we might ask, but we will let those go. Do you want to state anything further?

Mr. Hodge: Not that I know of.

Mr. Cowan: Do you haul logs to the saw mill for nothing?

Mr. Hodge: No, sir. We handle the logs on a milling in transit rate. The railroad company hauls the logs from points of origin along its line to the mill to be manufactured or milled in transit, and they get part of the through rate for the service they do.

4572 Mr. Cowan: Then the pay for hauling the logs down to the saw mill at Hodge is paid in precisely the same way you get for hauling the lumber that is sawed at Danville out to Hodge?

Mr. Hodge: There is no charge made or billing made for the logs from the points of origin to the mill; just a milling in transit.

Mr. Cowan: But you get pay in each case, in the one case by hauling the lumber down to Hodge from their mill, and in the other for hauling the logs down to Hodge, out of the division which is given you by the Rock Island when the lumber goes out?

Mr. Hodge: Yes, sir.

Mr. Cowan: And that is the only pay you get for your services in each case?

Mr. Hodge: Yes, sir.

Mr. Cowan: Suppose they did not pay you any division at all, you would have to charge for hauling the logs?

Mr. Hodge: Yes, sir, and for the lumber too.

Mr. Cowan: Suppose they paid you a division on the lumber at Danville, if you had no saw mill at Hodge, would it be more profitable to haul the lumber product from the log down to Hodge from Danville on the four cent division, than it would be to haul
4573 the logs down there and receive the four cent division on the lumber when shipped out of Hodge.

Mr. Hodge: Well, I don't know. I do not think there would be a great deal of difference.

Mr. Cowan: Have you had any meetings of this railroad company, have you ever attended a meeting at which officers were elected?
Mr. Hodge: Yes, sir.
Mr. Cowan: Where and when was that held?
Mr. Hodge: At Hodge, and the meetings are held annually.
Mr. Cowan: At Hodge?
Mr. Hodge: Yes, sir.
Mr. Cowan: In what office?
Mr. Hodge: In the office of the railroad company.
Mr. Cowan: And is that in the building occupied by the lumber company?
Mr. Hodge: Yes, sir, the railroad company occupies the upstairs of the building and the lumber company is downstairs.
Mr. Cowan: At this meeting was anybody there interested in the lumber company?
Mr. Hodge: The stockholders, yes, sir; the stockholders of the railroad company and lumber company are practically the same.
4574 Mr. Cowan: Did they elect officers?
Mr. Hodge: Yes, sir.
Mr. Cowan: Were the parties present induced to elect the particular officers because of their interest in the lumber company or in the railroad company?
Mr. Hodge: In the railroad.
Mr. Cowan: Was any other business transacted?
Mr. Hodge: Well, whatever business was necessary to come before the meeting was transacted.
Mr. Cowan: Did you have anything to do with this extension or further construction which you have been examined about?
Mr. Hodge: There is nothing that I remember about definitely.
Mr. Cowan: You elected directors also at that time?
Mr. Hodge: Yes, sir.
Mr. Cowan: Have you had any meeting of the directors?
Mr. Hodge: Yes, sir.
Mr. Cowan: And were they the same as represented the lumber company?
Mr. Hodge: The directors were all present, and they are interested in the railroad company and lumber company alike.
Mr. Cowan: Going back to the investment in the property
4575 when this saw mill business was established there, they built a railroad for the purpose of serving the saw mill?
Mr. Hodge: Yes, sir.
Mr. Cowan: And that was all one investment?
Mr. Hodge: I think it was. I was not there.
Mr. Cowan: And that was put in by individuals, of course.
Mr. Hodge: You mean the stockholders?
Mr. Cowan: The capital was supplied by individuals?
Mr. Hodge: Yes, sir.
Mr. Cowan: Who became stockholders in the lumber company when organized?
Mr. Hodge: That is right.

Mr. Cowan: And they continued in that attitude, in owning and operating a railroad down to 1906, I believe you stated.

Mr. Hodge: Yes, sir.

Mr. Cowan: How long had the Rock Island railroad been built when you incorporated this lumber company's road as a railroad?

Mr. Hodge: Well, sir, I could not tell you.

Mr. Cowan: Have you any approximate idea how long the Rock Island had been built?

Mr. Hodge: Do you mean the track? The railroad that was acquired by the Rock Island? The Arkansas Southern Rail-
4576 road Company built the track in through that country in 1900, about six years before this time; but afterwards the Rock Island acquired it, and I don't remember what time it was.

Mr. Cowan: Well, you had your saw mill at Hodge before the Rock Island acquired the road?

Mr. Hodge: Yes.

Mr. Cowan: And you had your railroad running from Danville before the Rock Island acquired that road. Now——

Mr. Hodge: I don't know whether it was or not.

Mr. Cowan: Well, it runs from somewhere down there?

Mr. Hodge: Yes.

Mr. Cowan: Did you have your sawmill at Danville before the Rock Island acquired the road?

Mr. Hodge: I could not say; it was before I went there.

Mr. Cowan: Is that pine or hardwood at Danville?

Mr. Hodge: It was pine at one time, but it is hardwood now.

Mr. Cowan: And the one at Hodge is pine?

Mr. Hodge: Yes, sir.

Mr. Cowan: Do you know whether any sum of money was paid out of the rates to the lumber company or to this railroad previous to the acquisition of that railroad by the Rock Island?

4577 Mr. Hodge: What was the question?

(Question read.)

Mr. Cowan: Had the railroad company or the lumber company either, that is what I mean, obtained any division of the rate or other payment out of the through rates previous to the time the Rock Island came through?

Mr. Hodge: I think not, they had never received any part of the through rate before they were incorporated, the railroad company or lumber company never did.

Mr. Cowan: They had hauled logs into the mill at Hodge on their railroad just as they did thereafter?

Mr. Hodge: Yes, sir, I presume they did.

Mr. Cowan: The change then was in the incorporation of the railroad by the parties who owned it and the saw mill?

Mr. Hodge: Well, it partly was.

Mr. Cowan: Upon making that change, a contract was made with the Rock Island for a division of the rate?

Mr. Hodge: After it was incorporated they made their contract on the division of the rate.

Mr. Cowan: How long have you been engaged in the lumber business and acquainted with shipping?

Mr. Hodge: I judge ten or twelve years.

4578 Mr. Cowan: Do you know anything about the payment of rebates to lumber shippers previous to the Hepburn Law?

Mr. Walter: Judge, I do not know what the witness' answer is going to be, but if you are going into this question it opens up a wide field, and I do not know what it has to do with the issues here.

Mr. Cowan: I will ask it in a little different form and it will not open it so wide.

Mr. Walter: Show what it has to do with this case and we may have no objection.

Mr. Cowan: Is it not a fact that after the passage of the Hepburn Law and the enforcement of the law against rebates, that the division of the rates practically took the place of rebates that were paid theretofore?

Mr. Garwood: That is purely an opinion, and we must object to a question of that sort. It involves a statement by counsel that a division has taken the place of a rebate and that it is a rebate. That is a question of law to be determined by the courts, and I think the question is improper from several different points of view, that ought to suggest themselves to counsel without our making any exception to it, and I think on reconsideration he will withdraw it.

Mr. Cowan: Well, I will withdraw it. Do you know how

4579 the money was furnished to build this railroad?

Mr. Hodge: No, sir.

Examiner Burchmore: He said it was built by the lumber company and turned over to the railroad company.

Mr. Cowan: I thought there was some additional line. Do you know who determined the price that the railroad company would pay for the railroad?

Mr. Hodge: I do not. That was made before I was connected with either the lumber company or the railroad company.

Mr. Cowan: If you build your connection which you are now building, and the Rock Island pays you four cents and the other road, I think it is the Louisiana & Northwest or some such name, but whatever it is, pays you only two cents, the Rock Island would not need any contract to get your tonnage, would they, in consideration of leasing you the rails? You would send it over there anyhow?

Mr. Hodge: I do not think that has very much to do with it. There would be considerably more service performed in taking it across there, and it would be much more than an even break, the additional cost to do it.

Mr Cowan: Does this projected line go through timber belonging to the lumber company?

Mr. Hodge: Some, yes, sir.

4580 Mr. Cowan: To what extent?

Mr. Hodge: You mean in acres or thousand feet or percentage?

Mr. Cowan: Any way you want to tell it.

Mr. Hodge: I guess the lumber company owns half of the timber.
Mr. Gowan: Between Danville and——
Mr. Hodge: And Bienville.
Mr. Cowan: And is it scattered all through between Danville and Bienville?
Mr. Hodge: Yes, there is some along in different places.
Mr. Cowan: So if you ever log that section of the country you will have to have a railroad in there anyhow?
Mr. Hodge: Yes, sir, but not one as we are building it; we could put in logging spurs.
Mr. Cowan: In some directions extending from Danville you have some lumber spurs extending in that direction?
Mr. Hodge: Yes, sir.
Mr. Garwood: Is the mill at Danville a hardwood mill?
Mr. Hodge: Yes, sir.
Mr. Garwood: And the mill at Hodge is a pine mill?
Mr. Hodge: A pine mill.
Mr. Garwood: Have you a mill at Bienville?
Mr. Hodge: Yes, sir.
4581 Mr. Garwood: That is a pine mill, is it?
Mr. Hodge: Yes.
Mr. Garwood: How far is Hodge Junction from Jonesboro, the connection of the Tremont & Gulf with the Rock Island?
Mr. Hodge: From Hodge to Jonesboro is about two miles. We have a survey from Hodge to Jonesboro to that connection.
Mr. Garwood: You have a survey from Hodge also to connect with the Tremont & Gulf at Jonesboro?
Mr. Hodge: Yes, sir.
Mr. Garwood: Is that in immediate prospect of completion?
Mr. Hodge: We have had grade stakes and everything placed on that survey.
Mr. Garwood: Do you know what, if any, lumber interests constructed the Arkansas & Southern which is now a part of the Rock Island System?
Mr. Hodge: Yes, sir.
Mr. Garwood: What?
Mr. Hodge: Mr. Huie, who is connected with our lumber company, was at one time auditor, and one of the principal stockholders in the Arkansas Southern Railroad Company, during the time of its construction.
Mr. Garwood: What lumber interests, who were the other
4582 people that built the Arkansas Southern?
Mr. Hodge: There was Mr. Henderson and Mr. Cargyl. They at that time owned a sawmill in Arkansas, and the road was built a little at a time, and in about the same way we are building ours.
Mr. Garwood: It was started at El Dorado?
Mr. Hodge: Yes, sir.
Mr. Garwood: And built southward about 17 miles?
Mr. Hodge: Yes, sir.
Mr. Garwood: And it stopped there quite awhile before it went on.

Mr. Hodge: Two or three years.

Mr. Garwood: And then gradually extended——

Mr. Hodge: Built to Ruston, and there they rested awhile, and built to Winnfield.

Mr. Garwood: Is that the southern terminus?

Mr. Hodge: That is the southern terminus of that road at that time, that is when they sold to the Rock Island.

Mr. Garwood: That constitutes now the Rock Island line in Louisiana?

Mr. Hodge: Yes, sir—no, they built from Eunice to Alexandria.

4583 Mr. Garwood: That is subsequent construction?

Mr. Hodge: Yes, sir.

Mr. Garwood: All of that is now part of the Rock Island?

Mr. Hodge: Yes, sir.

Mr. Garwood: Is it not a fact that the same people that built the Arkansas Southern are now constructing the Memphis, Dallas & Gulf?

Mr. Hodge: Yes, sir, they are practically the same.

Mr. Garwood: What length is that road——

Examiner Burchmore: We will go into that road tomorrow.

Mr. Hodge: I do not know, anyway.

Mr. Garwood: This Louisiana & Northwest Road, about what length of line is that?

Mr. Hodge: I think about 120 miles.

Mr. Garwood: Is that an independent railway organization or has it any connection with any of the other systems? I am asking purely for information, I do not know.

Mr. Hodge: Well, I do not know either, but I think it is separate; it has no connection with any other trunk line.

Mr. Coleman: About this condemnation suit, were you a witness in that, or do you know anything about it?

Mr. Hodge: I do not think I was a witness in that; I know something about it, however.

4584 Mr. Coleman: Where was that land located that you wished to condemn?

Mr. Hodge: It was on the line between Danville and Walsh, the new line that we are now building.

Mr. Coleman: That is the line that you contracted the rail for, as I understand?

Mr. Hodge: Partly so.

Mr. Coleman: Was that a logging road at the time?

Mr. Hodge: At the time we bought it?

Mr. Coleman: Yes.

Mr. Hodge: Well, as I stated, I think they had made application for a charter.

Mr. Coleman: The point I want is, was that a logging road at the time the condemnation proceedings were instituted?

Mr. Hodge: Oh, no; that was not a logging road; it was the North Louisiana & Gulf. It was last year.

Mr. Coleman: I noticed the court said in its opinion: "The next

point urged is in reference to the line of railway stated in the charter not being in a course that would take in and cover the property of the defendant over which the right of way is demanded in this suit." In other words, there was a variation from the railroad as laid out. Did that cover a logging spur?

4585 Mr. Hodge: No, sir, it covered a branch line going to Shreveport, and that is this line, and that was the point that was discussed there.

Mr. Coleman: You testified about the railroad not paying any taxes. Do you know if the lumber company pays any taxes on the logging roads?

Mr. Hodge: The spurs in the woods?

Mr. Coleman: Yes.

Mr. Hodge: Yes, they do.

Mr. Coleman: It does?

Mr. Hodge: Yes, sir.

Mr. Coleman: That is all.

(Witness excused.)

4586 *The Bierne & Clear Lake Railroad.*

J. G. GREENE was called as a witness, and having been duly sworn testified as follows:

Examiner Gutheim: What is your full name?

Mr. Greene: J. G. Greene.

Examiner Gutheim: Where do you live?

Mr. Greene: Beirne, Arkansas.

Examiner Gutheim: Your official connection with the Beirne & Clear Lake Railroad is what?

Mr. Greene: Secretary and Treasurer.

Examiner Gutheim: Will you describe the general location of the railroad, the Beirne & Clear Lake?

Mr. Greene: It starts at Beirne, Arkansas, and runs in a southeasterly direction.

Examiner Gutheim: To what point?

Mr. Greene: To the Little Missouri River.

Mr. Garwood: Could you ask him to locate that by the state and county?

Mr. McRae: State what county?

Mr. Greene: It is in Clark County, and runs to Nevada County.

4587 Examiner Gutheim: You have a connection with the Iron Mountain at Beirne?

Mr. Greene: Yes, sir.

Examiner Gutheim: About what is the mileage of your road?

Mr. Greene: Four and a half miles, incorporated.

Examiner Gutheim: And how much do you operate unincorporated?

Mr. Greene: Four and a half miles.

Examiner Gutheim: Who owns that?

Mr. Greene: The Penn Lumber Company.
Examiner Gutheim: Is this a standard or narrow gauge road?
Mr. Greene: Narrow gauge.
Examiner Gutheim: How much equipment do you have?
Mr. Greene: Two locomotives and twelve cars.
Examiner Gutheim: Are those all logging cars?
Mr. Greene: Yes, sir.
Examiner Gutheim: Do you pay the Penn Lumber Company any consideration for the privilege of operating over their tracks?
Mr. Greene: Yes, sir.
Examiner Gutheim: How much?
Mr. Greene: $25.00 a month.

Examiner Gutheim: Where is the mill of the Penn Lum-
4588 ber Company located?

Mr. Greene: About half a mile from the junction point of the Iron Mountain at Beirne.
Examiner Gutheim: And is the product of the mill delivered to the Iron Mountain with the power of the Beirne & Clear Lake Railroad, or does the Iron Mountain take it out with its own power?
Mr. Greene: The Beirne & Clear Lake takes it all out.
Examiner Gutheim: That is, you have a third rail operation there?
Mr. Greene: Yes, sir.
Examiner Gutheim: Is there any traffic producing operation along the line of the Beirne & Clear Lake with the exception of the operation of the Penn Lumber Company?
Mr. Greene: There is now, but they are just starting.
Examiner Gutheim: What is it?
Mr. Greene: A hickory pole and shaft mill and a small stave mill.
Examiner Gutheim: They are located where?
Mr. Greene: At or near Hartley.
Examiner Gutheim: That is a point about four and a half miles out?

Mr. Greene: Yes, sir.

Examiner Gutheim: What is the relation between the Penn
4589 Lumber Company and the railroad company?

Mr. Greene: None, except the officers are the same, practically.
Examiner Gutheim: Well, is there any community of interest in the stock ownership of the two corporations?
Mr. Greene: They are two separate corporations but several of the stockholders are the same and several are not.
Examiner Gutheim: To what extent are they the same? Do the same individuals control the policies of both companies through stock ownership?
Mr. Greene: Yes, sir.
Examiner Gutheim: And as a matter of fact what proportion of the stock of the railroad company is held by individuals who have no stock interest in the lumber company?
Mr. Greene: A little over two-thirds.
Examiner Gutheim: A little over two-thirds——
Mr. Greene: Are owned by the same stockholders.

Examiner Gutheim: So that one-third is entirely outside?
Mr. Greene: Well, less than one-third.
Examiner Gutheim: When was this road incorporated?
Mr. Greene: March 10th, 1909.
4590 Examiner Gutheim: Prior to that time was it operated as a logging tram by the Penn Lumber Company?
Mr. Greene: Prior to what?
Examiner Gutheim: Prior to the date of the incorporation?
Mr. Greene: Just a little.
Examiner Gutheim: It was built by the Penn Lumber Company?
Mr. Greene: No, sir.
Examiner Gutheim: Built by somebody and paid by them?
Mr. Greene: Yes, sir.
Examiner Gutheim: And when transferred to the incorporated railroad company what did the Penn Lumber Company receive in return?
Mr. Greene: $8,000.
Examiner Gutheim: In stock?
Mr. Greene: No, sir, in cash; $6,600 of it was cash, and the balance was services.
Examiner Gutheim: About how much of your traffic at the present time is produced by the Penn Lumber Company? Can you give us a statement showing the actual figures, tonnage and revenue, divided between the business of the Penn Lumber Company and the business of any other individuals?
Mr. Greene: Up to this time it has been practically all the Penn Lumber Company's product.
4591 Examiner Gutheim: About how much tonnage is there that has been produced in the last fiscal year?
Mr. Greene: I just have up to June; it was very small. I just have up to June 30th, 6,215 tons. That is just for ten months ending June 30th.
Examiner Gutheim: Does that include logs and lumber or timber only?
Mr. Greene: Logs and lumber.
Examiner Gutheim: In what proportion are the two?
Mr. Greene: The lumber is 1,225 tons and logs 4,990 tons.
Examiner Gutheim: What division, if any, do you receive from the Iron Mountain?
Mr. Greene: Two cents.
Examiner Gutheim: Two cents to all points?
Mr. Greene: Yes, sir, one and two cents; I think it is all two cents now.
Examiner Gutheim: And are those divisions on the milling in transit basis?
Mr. Greene: Yes, sir.
Examiner Gutheim: When were they made effective?
Mr. Greene: Soon after the date of our charter, about 30 days after, March 15th.
Examiner Gutheim: How long prior to the time divisions
4592 were received had the road been in operation?
Mr. Greene: It had been laying practically idle for quite a while.

Examiner Gutheim: Had it been operated prior to the time of its laying idle?

Mr. Greene: Yes, sir.

Examiner Gutheim: By the same people, the Penn Lumber Company?

Mr. Greene: No, by another concern.

Examiner Gutheim: Do you know whether the other concern ever received any divisions?

Mr. Greene: I understand that they did for awhile, and then they were cancelled on account of not being incorporated.

Examiner Gutheim: So when the Penn Lumber Company began operating the mill it was understood that in order to receive divisions you had to have your road incorporated?

Mr. Greene: Yes, sir.

Examiner Gutheim: Does the railroad receive any revenue in addition to the divisions that are paid to it by the Iron Mountain?

Mr. Greene: For the services it does beyond the incorporated part of the railroad, it does.

Examiner Gutheim: And that is collected from the Penn
4593 Lumber Company?

Mr. Greene: Yes, sir.

Examiner Gutheim: For the log haul?

Mr. Greene: Yes, sir.

Examiner Gutheim: At what rate?

Mr. Greene: $3.00 a thousand.

Examiner Gutheim: Do you publish any local tariffs?

Mr. Greene: Yes, sir.

Examiner Gutheim: And are they on file with the Interstate Commerce Commission?

Mr. Greene: Yes, sir.

Examiner Gutheim: Are you now keeping separate accounts for the railroad operation?

Mr. Greene: Yes, sir.

Examiner Gutheim: Do you make monthly and annual reports to the Interstate Commerce Commission?

Mr. Greene: We are now, yes, sir.

Examiner Gutheim: Is the operation as now conducted a profitable one?

Mr. Greene: It is about breaking even now.

Examiner Gutheim: So that if your divisions from the Iron Mountain were withdrawn you would be operating at a deficit?

Mr. Greene: Yes, sir.

4594 Examiner Gutheim: In that case you would be compelled to increase the rate charged to the Penn Lumber Company for logs in order to break even, would you not?

Mr. Greene: I do not know as I understand your question.

Examiner Gutheim: In the event that the Iron Mountain withdrew the division of two cents per 100 pounds, in order to break even in the railroad operation, you would be compelled to charge the Penn Lumber Company a rate greater than the $3.00 now being charged for the log haul?

Mr. Greene: Yes, sir.

Examiner Gutheim: Speaking as a lumber man for a minute, would not that increase in rate on the logs be reflected in the increased cost of the logs when they got to the mill?

Mr. Greene: Yes, sir.

Examiner Gutheim: And that being the case would not the lumber cost you more when it was finally shipped?

Mr. Greene: Yes, sir.

Examiner Gutheim: So if you had no division your lumber would cost you more, and your margin of profit would be less at the same price?

Mr. Greene: Yes, sir.

Examiner Gutheim: About how much of a road crew do
4595 you have?

Mr. Greene: Section crew, do you mean?

Examiner Gutheim: Yes.

Mr. Greene: One.

Examiner Gutheim: What train service do you operate?

Mr. Greene: One train and one switch engine crew.

Examiner Gutheim: Do you have any passenger service?

Mr. Greene: No.

Examiner Gutheim: Is the train operated on schedule?

Mr. Green: Yes, sir.

Examiner Gutheim: Are there any bridges or sharp curves or steep grades on the line?

Mr. Greene: There is one bridge.

Examiner Gutheim: Are there any buildings to speak of, owned by the railroad company?

Mr. Greene: Well, there is one station.

Examiner Gutheim: About what is the cost of road written up at the present time on the books?

Mr. Greene: $8,000.

Examiner Gutheim: That is all.

Examiner Burchmore: Suppose that as the result of this proceeding, the Beirne & Clear Lake Railroad should be deprived of any divisions out of joint rates on lumber; suppose that should happen; what would become of the railroad in your opinion?

4596 Mr. Greene: Well, I doubt if we could operate it.

Examiner Burchmore: Would you just simply take off your train and let it lie there, or take up the road, or what would happen?

Mr. Greene: That would have to remain to be seen; I could not predict that.

Examiner Burchmore: What would the lumber company do if that should happen?

Mr. Greene: They would have to make some other arrangements.

Examiner Burchmore: Move their mill, do you mean?

(No reply.)

Examiner Burchmore: You simply cannot prophecy what would happen?

Mr. Greene: No, sir.

Mr. McRae: Don't you know you would have to quit business?
Mr. Greene: Well, we could not make any money.
Examiner Burchmore: Does this stave manufacturer get his stave bolts off the lands of your company?
Mr. Greene: No, sir.
Examiner Burchmore: He does not buy stave timber from your lumber company?
Mr. Greene: No, sir.
4597 Examiner Burchmore: Does he have to pay a local rate in addition to the junction point rate, or does he get a through rate on his staves?
Mr. Greene: He gets a through rate if he ships them.
Mr. McRae: What were the receipts of your road last year if you remember it. If you haven't it, we will not take much time to get it.
Mr. Greene: $4,438.55.
Mr. McRae: What were the expenses?
Mr. Greene: The total expenses were just a little over that amount.
Mr. McRae: Have you ever paid any divisions on the road?
Mr. Greene: No.
Mr. McRae: You are assessed as a railroad under the laws of the State of Arkansas?
Mr. Greene: Yes, sir.
Mr. McRae: You report to the Arkansas Commission?
Mr. Greene: Yes, sir.
Mr. McRae: Do you concur in the tariffs of the Iron Mountain and the other roads over which you ship?
Mr. Greene: Yes, sir.
Mr. McRae: What timber holdings has the Penn Lumber Company along in the country through which this road of yours
4598 is built?
Mr. Greene: We own about one-third of the timber.
Mr. McRae: How is the other timber land held?
Mr. Greene: By several individuals.
Mr. McRae: In no way connected with the Penn Lumber Company?
Mr. Greene: No.
Mr. McRae: Or with the Beirne & Clear Lake Railroad?
Mr. Greene: No, sir.
Mr. McRae: Describe this country through which the railroad is built, and state if there is any way to get the products from across the river in Nevada County to Beirne, timber or other products to the Iron Mountain from that direction, except by rail?
Mr. Greene: It would be impossible to get them out without rail.
Mr. McRae: Why?
Mr. Greene: It is a swampy low country across the Little Missouri River.
Mr. McRae: Practically it is a little costly to build the road, but there is no other way to get the product across the river?
4599 Mr. Greene: That is true.
Mr. McRae: Have you had any solicitation from anyone

beyond there in the country where the mill company owns the road, to extend this road?

Mr. Greene: Yes, sir.

Mr. McRae: What is the character of the country on that side of the river?

Mr. Greene: Good farming country out there.

Mr. McRae: On the other side of the river?

Mr. Greene: Yes, sir.

Mr. McRae: That part of the road has not been acquired by the Beirne & Clear Lake?

Mr. Greene: Except by a lease.

Mr. McRae: But it is not owned by it?

Mr. Greene: No.

Mr. McRae: Before you bought these timber holdings and the tram road, I believe you bought from Yaeger Brothers?

Mr. Greene: Yes, sir.

Mr. McRae: Before you made that purchase, did you consult with the Iron Mountain as to divisions?

Mr. Greene: I did, yes, sir.

Mr. McRae: What did they tell you?

Mr. Greene: They told us we could depend on the divisions
4600 if we would incorporate our road.

Examiner Burchmore: Who told you that?

Mr. Greene: Mr. J. C. Lincoln of the Iron Mountain.

Examiner Burchmore: When was that?

Mr. Greene: In 1906.

Examiner Burchmore: But you did not incorporate until 1909?

Mr. Greene: No, sir.

Mr. McRae: As a matter of fact, is it not impossible to transact your mill business or your railroad business if you would get no divisions?

Mr. Greene: I would consider it so, yes, sir.

Mr. McRae: You would not have made this purchase but with the understanding that you would have these divisions?

Mr. Greene: No, sir. We found that out before we would invest or could invest.

Examiner Burchmore: Well, why could you not? What is the reason you could not?

Mr. Greene: That amount of profit would be taken from it.

Mr. McRae: Is it not true it is too far to haul it by wagon, and there is no other way to transport it except by rail?

Mr. Greene: Yes, sir, that is true.

4601 Mr. McRae: Some questions have been asked here of the relation of the small operator without a railroad to the operator with a railroad. Now will you state, if you know, what relative position the larger mill owner who has a railroad, we will say owned in common with the other, and who receives a division, bears to the owner of a small mill who has no railroad?

Mr. Greene: I do not consider that he has any advantage.

Mr. McRae: Well, is it not true that the small owner who hauls his logs to the mill with the wagon performs the same service as the

large mill owner with a railroad, when the latter has hauled his logs to the railroad?

Mr. Greene: I consider it is the same; it is practically the same work.

Mr. McRae: You have had practical experience, you have operated both ways?

Mr. Greene: Yes, sir.

Examiner Burchmore: Then if you are paid for hauling your logs by the railroad, should not he be paid for hauling his logs by mule?

Mr. Greene: He does not have to maintain a railroad when he hauls by mule.

4602 Examiner Burchmore: I do not say as much, but should he not be paid the cost of feeding the mule.

Mr. Greene: If he carries them——

Mr. McRae: But does not the fellow who hauls to the railroad have to have mules to haul it to the railroad?

Mr. Greene: Certainly. It costs just as much to get the logs to the railroad as the small man has to pay to get his logs to the mill.

Mr. McRae: Is it not true they are not in the same position for the reason that the small owner has his logs at the mill ready to cut while the larger owner with the railroad still has the additional service and expense of transporting his logs to the mill from the delivery point by team, and in addition to that the railroad has to be financed?

Mr. Greene: Yes.

Mr. McRae: Is it not true that the divisions cannot amount to a rebate as against the small mill owner until the amount received is enough to cover the cost of the operation and the cost of maintenance and the interest on the investment and a sinking fund sufficient to wipe out the investment by the end of the life of the mill company operating it?

Mr. Greene: I would not consider it a rebate until that time.

4603 Examiner Burchmore: Suppose it does equal all that, and more too, would it be a rebate?

Mr. Greene: I should not think so. I should think they were entitled to a reasonable profit.

Examiner Burchmore: Suppose it was an unreasonable profit, and a very gross profit.

Mr. Greene: I would not consider it a rebate.

Examiner Burchmore: Then as a matter of fact all the conditions Judge McRae lays down you regard as immaterial, it would not be a rebate anyway.

Mr. Greene: I would not consider it a rebate, no, sir.

Mr. McRae: It would not be a rebate as he states, until these expenses have been met and provided for.

Mr. Greene: No.

Mr. McRae: And after that it might be. Do you know of any cases in your experience where the divisions have amounted to enough to cover those items I have mentioned?

Mr. Greene: It has not with us; I do not know of any.

Mr. McRae: Is it not true that when this has been done that the large owner has made no advance, but he has simply got back what he put in.

Mr. Greene: Yes, sir.

4604 Mr. McRae: And has he not had the burden of financing and carrying on this investment, and has been subjected to the risk and hazard of losing his investment, a burden which the small owner does not assume and which he does not take.

Mr. Greene: Yes, sir.

Mr. Armistead: You were asked by Mr. Burchmore, the Examiner, if in case your tap line gets a division there should not also be a division accorded the mill owner who hauls his logs to a mill with a team of mules. Is it not a fact that the difference is this, that the railroad property is dedicated to public use, and subjected to all the laws of Congress and the state in regulating that property, and that it must be so devoted for all future time, and the mule is private property and may be disposed and handled of as the mule owner sees fit, is not that the distinction?

Mr. Greene: I consider it so.

Mr. Coleman: The mule is generally the subject of governmental control too. Does this incorporated part go down to the Little Missouri?

Mr. Greene: Yes, and across it.

Mr. Coleman: And then beyond that is the tram?

Mr. Greene: Yes.

4605 Mr. Coleman: These timber owners, are they on the incorporated part of the tram line?

Mr. Greene: Right near the junction.

Mr. Coleman: But on the tram really, is it not?

Mr. Greene: No—well, it is just as near one as the other; they are down the river.

Mr. Coleman: Why didn't you incorporate into the timber, all the way?

Mr. Greene: At the time we bought the property we intended to take that end up across the river.

Mr. Coleman: But that is the only reason?

Mr. Greene: Yes.

Mr. Coleman: Do you get a lower tax on railroad property in that state than on other pooperty?

Mr. Greene: I think it is higher.

Mr. Coleman: You said you bought the property in 1906.

Mr. Greene: Yes.

Mr. Coleman: And you were then told by the Iron Mountain that you could not have any allowance until you incorporated?

Mr. Greene: Yes.

Mr. Coleman: Did they stick to that statement?

Mr. Greene: Yes, sir.

4606 Mr. Coleman And you did not incorporate until 1909?

Mr. Greene: No.

Mr. Coleman: What did you do for your division between 1906 and 1909?

Mr. Greene: We were in litigation down there, and not operating to any extent.

Examiner Burchmore: What was the character of that litigation?

Mr. Greene: It was about land titles.

Examiner Burchmore: But before you were incorporated you received no divisions?

Mr. Greene: No.

Mr. McRae: You do not mean you were in litigation with the Iron Mountain?

Mr. Greene: No.

Mr. McRae: But with the people you bought from?

Mr. Greene: Yes, sir.

Examiner Burchmore: After you did incorporate you did receive allowances?

Mr. Greene: Yes, sir.

Examiner Burchmore What difference was there in the service you rendered, or the obligations you actually bore
4607 before and after your incorporation?

Mr. McRae: They did not operate before they incorporated.

Examiner Burchmore: Yes, he did, pardon me.

Mr. Greene: As a railroad company we did not.

Examiner Burchmore: You ran your trains over your tracks just the same?

Mr. Greene: To a small extent; they had a few little bills they cut.

Examiner Burchmore: But it was done in the same manner that you now run your trains?

Mr. Greene: Practically, yes, sir.

Examiner Burchmore: The only difference being that you are incorporated and hold yourselves out to the public as a common carrier?

Mr. Greene: As a common carrier, and accept anything that is offered us to carry.

Examiner Burchmore: Before you were incorporated you would have taken anything that anybody offered you to carry, would you not, for a reasonable sum of money ?

Mr. Greene: If we were paid for it, yes, sir.

Mr. Garwood: Does that road connect with any other road besides the Iron Mountain?

4608 Mr. Greene: No, not any.

Mr. Coleman: If you build in the same direction that you are now headed from Beirne into this farming country, do you then approach another railroad?

Mr. Greene: Not anywheres near, no. There is a little town over there they want us to come to, and we have practically decided to go to it.

Mr. McRae: But you go into a country that has no railroad and that needs one?

Mr. Greene: Yes, sir.

Examiner Burchmore: Is your engine equipped with an automatic coupler?

Mr. Greene: No, sir.

Examiner Burchmore: Do not the Safety Appliance Acts apply to your railroad?

Mr. Greene: I do not know that they do.

Examiner Burchmore: Have you ever sought the advice of counsel on that question?

Mr. Greene: Yes, sir

Examiner Burchmore: What does he think about it?

Mr. Greene: He said they did not, only on stuff that moved out of the state.

4609 Examiner Burchmore: You are claiming to be within the jurisdiction of the Interstate Commerce Commission on the rate question under the Act to Regulate Commerce. I might express the opinion that you are surely subject to the same extent as to the other law.

Mr. Greene: We aim to comply, if it is required.

Mr. McRae: The road is subject to that requirement. I never asked him if he had complied with it.

Examiner Burchmore: Is it practical to put a safety coupler on?

Mr. Greene: We will put it on if required.

Examiner Burchmore: You have a third rail connection with the Iron Mountain?

Mr. Greene: Yes, sir.

Examiner Burchmore: Can you use automatic couplers on a locomotive that operates over a three track line?

Mr. Greene: We would have to put on four for the yard; we can do it.

Examiner Burchmore: You would have to have some special form of coupler?

Mr. Greene: No, we would have to arrange the track so it would be in the centre, that is all.

4610 Mr. Coleman: You have not taken any steps toward locating this line beyond the tap line?

Mr. Greene: No.

Mr. Coleman: Your only through rate is on lumber?

Mr. Greene: Yes.

Mr. Coleman: Not on staves or merchandise?

Mr. Greene: Yes, it is.

Examiner Burchmore: Can you furnish us a map of your line?

Mr. Greene: Yes, sir.

(Witness excused.)

4611 *Deering Southwestern Railroad.*

S. P. REYNOLDS, was called as a witness, and having been duly sworn, testified as follows:

Mr. Bancroft: Where do you live?

Mr. Reynolds: Caruthersville, Mo.

Mr. Bancroft: How long have you lived there?

Mr. Reynolds: 17 years.

Mr. Bancroft: What business have you been engaged in during that time?

Mr. Reynolds: I am a civil engineer by profession, engaged in developing southeast Missouri so far as I was able.

Mr. Bancroft: What interests have you in southeast Missouri, particularly in Pemiscot and Dunklin Counties?

Mr. Reynolds: I own quite a bit of land in Pemiscot County.

Mr. Bancroft: What particular development have you been engaged in?

Mr. Reynolds: I have been engineer of the lower St. Francis levee district in Missouri, which is to protect that district from the overflow of the Mississippi River; and also have been organizing drainage districts to reclaim this land after it was levied.

4612 Mr. Bancroft: What is the character of the land?

Mr. Reynolds: Sedimentary deposit, Mississippi bottom land, very fertile in nature.

Mr. Bancroft: What crops are raised in Pemiscot and Dunklin Counties? If you know where the Deering Southwestern is located.

Mr. Reynolds: I do. Corn, cotton, alfalfa, all kinds of vegetables.

Mr. Bancroft: How much of the land is cleared from the line of the Deering Southwestern, between Deering and Caruthersville, how much is in cultivation generally.

Mr. Reynolds: About 65 to 70 per cent.

Mr. Bancroft: Are you familiar with the railroad facilities of that portion of the state?

Mr. Reynolds: Yes, sir, I am.

Mr. Bancroft: And have been for how many years?

Mr. Reynolds: Ever since I have been in the county.

Mr. Bancroft: What public purposes does this railroad serve within your knowledge?

Mr. Reynolds: It will help to move the crops grown on these lands and will give us a connection with territory that it is difficult now to reach; for instance, the southern end of Dunklin County, we can reach it by railroad in round-about ways. We hope to get

4613 through this road a direct connection with that territory.

Mr. Bancroft: In a general way what extent of population is served by this road between Caruthersville and Hornersville?

Mr. Reynolds: I suppose 8,000 to 10,000 peaple.

Mr. Bancroft: Caruthersville, how many are there in that community?

Mr. Reynolds: Something like 4,000 in the town of Caruthersville.

Mr. Bancroft: What business besides lumber business does and will this road have, in your judgment, when completed through to Hornersville?

Mr. Reynolds: There are a number of factories in the town of Caruthersville that are dependent on timber coming from along the lines of railroads and the river. The building of this road will make accessible to the town of Caruthersville other bodies of timber and——

Mr. Bancroft: What inducements, if any, have the people of Caruthersville and that vicinage offered for the completion of this line?

Mr. Reynolds: They have purchased the right of way and
4614 terminal ground to the extent of $12,000 to $15,000.

Mr. Bancroft: Have you any interest in the railroad or any allied interests of the railroad?

Mr. Reynolds: None at all.

Mr. Bancroft: Your interests are entirely with Caruthersville as your property in that neighborhood?

Mr. Reynolds: Yes, sir, that is true.

Mr. Bancroft: What has been the growth of Caruthersville in the last few years, if any?

Mr. Reynolds: In 1895 the population was about 500; in 1900 something like 2,000, and about 4,000 at the present time.

Mr. Bancroft: What new industries, to your knowledge, will be started and carried on upon the line of this railroad and as the result of its completion?

Mr. Reynolds: Two or more cotton gins, and——

Mr. Bancroft: Where?

Mr. Reynolds: One at Braggadocio and one at Blazer.

Mr. Bancroft: Where is Blazer?

Mr. Reynolds: At the junction of this road with the Frisco.

Mr. Bancroft: And any other?

Mr. Reynolds: And perhaps an elevator in the next year at Blazer.

4615 Mr. Bancroft: As the timber is cut off from this land in this neighborhood, what use is made of it?

Mr. Reynolds: Of the land?

Mr. Bancroft: Yes.

Mr. Reynolds: It is at once converted into farms.

Mr. Bancroft: What is the relative value of the land as timber and as farm land?

Mr. Reynolds: A piece of virgin timber in that territory perhaps would be worth $50.00 to $60.00 an acre today for timber purposes; that is a fertile soil, and the timber is very large and fine. And when the timber has been removed the land is worth $20.00 to $40.00 per acre in the cut-over state. When improved for farming it becomes worth $50.00 to $100.00 an acre unless you go adjacent to the town of Caruthersville, and then of course, the prices are very much higher on account of the advantages there.

Mr. Bancroft: What public need was there for the construction of this line?

Mr. Reynolds: Being very fertile land and a heavy rainfall in that district makes the roads very bad, so the transportation of the crops and of the timber grown there is very difficult unless we have railroads. The railroads will also bring in material for building the public roads and thus improve the country.

4616 Mr. Bancroft: Caruthersville is the county seat of Pemiscot County?

Mr. Reynolds: It is.

Mr. Bancroft: What means of communication were there between it and Hornersville and the country around to the west and southwest before this line was built?

Mr. Reynolds: Across the country for nine months of the year it was impassible but by travelling over two or three lines of railroad we could reach Hornersville.

Mr. Bancroft: How large a place is it?

Mr. Reynolds: I am not able to say the population of Hornersville, but when I speak of Hornersville I speak of the district or territory.

Mr. Bancroft: How is the country between those two points settled, especially I will call your attention particularly to the point between Deering and Caruthersville.

Mr. Reynolds: Is what?

Mr. Bancroft: How thickly settled?

Mr. Reynolds: I suppose the population between Caruthersville and Deering would number something like 4,000 people.

Mr. Bancroft: Outside the town of Caruthersville?

Mr. Reynolds: Yes.

4617 Mr. Bancroft: What is there in the town of Braggadocio, which I see is one of the towns on this plat?

Mr. Reynolds: It is a small village that has remained constant in population for a great many years, which has begun to grow since they began to build the railroad from Deering to Caruthersville.

Mr. Bancroft: Are there any stores there?

Mr. Reynolds: More stores are being established, and a bank, and people are beginning to build houses there, and the place is starting to grow.

Mr. Bancroft: Is there a village or town named Game?

Mr. Reynolds: Yes, sir.

Mr. Bancroft: Where is it?

Mr. Reynolds: About one half a mile south of the station of Game on this road, and something like three or four miles southwest of Caruthersville.

Mr. Bancroft: How large a settlement is there?

Mr. Reynolds: The country is well developed now.

Mr. Bancroft: The country is well settled now?

Mr. Reynolds: Yes, sir.

Examiner Burchmore: What is the name of that settlement?

Mr. Reynolds: They call it Game. The United States post office was at that place until the rural route was established.

4618 Examiner Burchmore: Is there any considerable amount of people who desire to travel between Caruthersville and Hornersville?

Mr. Reynolds: Yes, sir, it gives us an outlet to the southwest which we have not had heretofore, because we can there reach a railroad that goes on into the Paragould and the Cotton Belt, southwest.

Examiner Burchmore: I am not speaking now of freight, but of passengers.

Mr. Reynolds: Yes, I meant to indicate that that gives us an outlet to the southwest.

Examiner Burchmore: There would not be any great number of

passengers desiring to travel between Caruthersville and Hornersville?

Mr. Reynolds: Well, frequently we do go in the roundabout way that we have. I cannot say what number of passengers would make that trip.

Examiner Burchmore: Braggadocio was formerly a logging town or mill town?

Mr. Reynolds: No, it is an old settled district.

Examiner Burchmore: How much time will be saved in
4619 going from Caruthersville to the southwest by using this new railroad over to Hornersville?

Mr. Reynolds: We ought to make the round trip in half a day if the schedule is as I understand it, and at present it takes from something like half past five in the morning to something like 9:30 at night.

Examiner Burchmore: I thought that you said that the building of this railroad from Caruthersville to Hornersville would enable the citizens of the former place to get into Texas and down there some place?

Mr. Reynolds: I don't know that I said Texas. I said it gave us a southwest outlet.

Examiner Burchmore: I thought you said southwest, and that you meant Texas.

Mr. Reynolds: Well, suppose we want to go down the Paragould or any of those lines——

Examiner Burchmore: It is simply an outlet for travel which might be called more or less local.

Mr. Reynolds: Well, yes.

Examiner Burchmore: Not long distance travel.

Mr. Reynolds: We are in a peculiar position. People along the Illinois Central in Tennessee, if they want to come over from
4620 Dyersburg, 18 miles across, have to go to Memphis or Cairo at present to get across, or if someone between those points wants to go to Paragould, they can cross the river at our place and have this railroad to take them to the southwest.

Examiner Burchmore: How can they go now, with the new railroad?

Mr. Reynolds: I say they can cross the river to our place and then go on.

Examiner Burchmore: As to freight, leaving aside the question of convenience to passengers, take the line running west from Caruthersville and up to the point of intersection of the Frisco between Caruthersville and the junction with the Frisco, the line of the Deering Southwestern apparently runs very close, that is within a couple of miles not only to the Frisco on the north and——

Mr. Reynolds: And the Frisco on the south.

Examiner Burchmore: Yes.

Mr. Reynolds: That is a detour line.

Examiner Burchmore: The farmers along there cannot complain that their territory is inadequately served, can they?

Mr. Reynolds: I have land close to what is called Canedy
4621 Switch. If I want a car I must go to Caruthersville, 7 miles, or to Hayti, 5 miles, over a difficult road in order to see the agent and get a car sent out, and it may be four or five days before I get it.

Examiner Burchmore: No doubt it would be very much more convenient.

Mr. Reynolds: I am looking after the development of the country.

Examiner Burchmore: And west from the junction point with the Frisco to the town of Deering, the distance from the Deering Southwestern right of way to other railroads is very much greater, comparatively.

Mr. Reynolds: Yes, sir.

Examiner Burchmore: You are acquainted with the town of Deering?

Mr. Reynolds: I have been there a time or two.

Examiner Burchmore: What sort of a town is it?

Mr. Reynolds: It is quite a little place; it is a manufacturing town.

Examiner Burchmore: A company town, is it not?

Mr. Reynolds: Largely so, yes, sir.

Examiner Burchmore: Is not the whole town owned by the Wisconsin Lumber Company?

4622 Mr. Reynolds: I don't know, I suppose so.

Examiner Burchmore: This map seems to indicate that.

Mr. Snow: We will show all that by Mr. Montgomery.

Mr. Coleman: Is Caruthersville the county seat?

Mr. Reynolds: Yes, sir.

Mr. Coleman: How long has it been?

Mr. Reynolds: Since 1898, I think. Formerly it was Gayoso, and it moved into the river, and they moved it back two or three times, and finally they made Caruthersville the county seat.

Mr. Bancroft: Did you have anything to do with building this Frisco detour line to Caruthersville?

Mr. Reynolds: Yes, sir.

Mr. Bancroft: When was that built?

Mr. Reynolds: In July, 1897, I made the survey from Caruthersville to Blythesville, Arkansas, 28 miles. The road was built in the year 1899 and 1900.

Mr. Bancroft: How did it happen to be built in this line shown on the map?

Mr. Reynolds: The timber adjacent to the river was giving away and we built the road originally to get the timber.

Mr. Bancroft: It was a logging road, was it?

4623 Mr. Reynolds: Yes, sir, lumber and logging road, supplying factories in Caruthersville and mills along the line of road; and later on it was decided to extend the road to Luxora, Arkansas and the road from Portageville up to Lilburn or Pawpaw was purchased by our company and a connection built from Caruthersville north to Portageville.

Mr. Bancroft: That was long before the Frisco was in that country?

Mr. Reynolds: Yes, sir.

Mr. Bancroft: And it afterwards became a part of the Frisco, as it is now?

Mr. Reynolds: Yes, sir.

Examiner Burchmore: Are you acquainted with the Mississippi Valley Railroad, which connects with the Frisco at Steele?

Mr. Reynolds: Yes, sir.

Examiner Burchmore: Is that a tap road?

Mr. Reynolds: Well, I suppose you would call it a tap road; it is built from the river across the Frisco to the west of Steele something like four miles, I should say.

Examiner Burchmore: Did you serve a part of the line of the Deering Southwestern?

Mr Reynolds: I did not.

(Witness excused.)

4624 A. C. TINDLE, was called as a witness, and having been duly sworn, testified as follows:

Mr. Bancroft: Where do you live?

Mr. Tindle: Caruthersville, Mo.

Mr. Bancroft: How long have you lived there?

Mr. Tindle: 32 years.

Mr. Bancroft: What is your business?

Mr. Tindle: Banking business and cotton business, cottonseed oil business.

Mr. Bancroft: Are you in a bank at Caruthersville?

Mr Tindle: I am.

Mr. Bancroft: What is your relation to it?

Mr. Tindle: Cashier of the Pemiscot County Bank.

Mr. Bancroft: How long have you been in such bank?

Mr. Tindle: 15 years.

Mr. Bancroft: How are you connected with the cotton business, what is the business, cotton gins?

Mr. Tindle: I am President of a company that owns and operates several cotton gins.

Mr. Bancroft: Where are they?

Mr. Tindle: Located in Pemiscot County and New Madrid County.

Mr. Bancroft: Any of them at Caruthersville?

4625 Mr. Tindle: One.

Mr. Bancroft: And in the oil business what is your relation?

Mr. Tindle: I am President of the Missouri Cotton Oil Company, a corporation which owns and operates seven cotton gins; they own and operate a cottonseed oil mill.

Mr. Bancroft: Where is the cottonseed oil mill and what is its capacity?

Mr. Tindle: The cottonseed oil mill is located in Caruthersville and has a capacity of 50 tons per day, maximum capacity.

Mr. Bancroft: Are you acquainted in that part of the country with the railroad facilities and the natural resources, and the character of the investors?

Mr. Tindle: I think so.

Mr. Bancroft: And have you been all these years?

Mr. Tindle: I think so.

Mr. Bancroft: What need in your judgment, and what public end does the Deering Southwestern Road serve, extending as it does now to Caruthersville from Deering, and thence southwest to Hornersville?

Mr. Tindle: That will open up a section of country that heretofore has had no outlet, and as the people of Caruthersville
4626 think, it will be of benefit to Caruthersville.

Mr. Bancroft: Have you any interest in the road itself, or any allied interests at all?

Mr. Tindle: I have no interest in the railroad.

Mr. Bancroft: You are interested in the industries you have mentioned?

Mr. Tindle: I am, and in the general development of the country.

Mr. Bancroft: Did you cooperate with other citizens of Caruthersville to offer inducements to the railroad to construct this line?

Mr. Tindle: I did.

Mr. Bancroft: What inducements were offered by your town and your citizens?

Mr. Tindle: We offered them the right of way from Deering into Caruthersville, and sufficient land for terminal facilities.

Mr. Bancroft: How much land was furnished for terminal facilities at Caruthersville?

Mr. Tindle: 20 acres.

Mr. Bancroft: Where are those 20 acres with reference to the Mississippi River and the town of Caruthersville.

4627 Mr. Tindle: In the corporate limits of this town of Caruthersville and extending nearly to the banks of the Mississippi River.

Mr Bancroft: Practically to the banks?

Mr. Tindle: Practically to the water's edge.

Mr. Bancroft: To your knowledge how long have the people of Caruthersville been directly interested and endeavoring to secure this line?

Mr. Tindle: Some five or six years.

Mr. Bancroft: What are the industries to be served at Caruthersville and in the country along that line besides those that you are directly interested in that you have mentioned?

Mr. Tindle: There is a hoop mill and stave mill and handle factory and an egg case factory; also I might add a grain elevator.

Mr. Bancroft: How many different business houses are there in Caruthersville and in that neighborhood, business stores and shops and factories, in Caruthersville at the present time, in a general way?

Mr. Tindle: I should say about 100.

Mr. Bancroft: What is the character of the soil along the line of this road?

4628 Mr. Tindle: Very fertile soil and very productive.

Mr. Bancroft: What are the chief crops?

Mr. Tindle: Corn, cotton, alfalfa and wheat; the principal crops are corn and cotton.

Mr. Bancroft: What is the average yield?

Mr. Tindle: A bale of cotton per acre.

Mr. Bancroft: How about the corn?

Mr. Tindle: 60 to 75 bushels per acre.

Mr. Bancroft: What do you know of new industries to be located on this line?

Mr. Tindle: I know of two cotton gins that will be located on this line, and one corn warehouse, one or two stores that I have heard of that will be located along the line.

Mr. Bancroft: Has there been a development of this country in and around Caruthersville recently, and if so, to what extent?

Mr. Tindle: Yes, Caruthersville is growing all the time. The country in general surrounding Caruthersville is being opened up very fast.

Mr. Bancroft: This land was originally overflowed by the Mississippi River and levees have been erected?

Mr. Tindle: Yes, sir.

4629 Mr. Bancroft: And by drainage it has been made tillable land?

Mr. Tindle: Yes.

Mr. Bancroft: And secure against overflow?

Mr. Tindle: Yes.

Mr. Bancroft: What quantity of cotton business, for instance, in your judgment, will this road do, or would it have done if it had been completed last year, from your knowledge of the situation that you have?

Mr. Tindle: Well, I figure that it could have handled 600 or 800 bales of cotton.

Mr. Bancroft: And how about other crops or products that would have been brought to Caruthersville if this road had been in service last year?

Mr. Tindle: It would be hard to tell how much corn it would have handled, but a great deal.

Examiner Burchmore: How many carloads of cotton?

Mr. Tindle: 600 or 800 bales, and we figure about 25 bales to the car.

Examiner Burchmore: 25 bales to the car?

Mr. Tindle: Yes, sir.

Examiner Burchmore: There are about 500 pounds to the

4630 bale?

Mr. Tindle: Yes, sir.

Examiner Burchmore: It is uncompressed, 25 to the car?

Mr. Tindle: Yes, sir, right through from the cotton gin.

Mr. Bancroft: The line from Deering to the southwest runs through a country that has not yet been cleared of the timber?

Mr. Tindle: That is true.

Mr. Bancroft: And that is being cleared, is it, and developed?

Mr. Tindle: As fast as the merchantable timber is removed the timber left is being cut off and the land is being cultivated.

Mr. Bancroft: And devoted to agriculture?

Mr. Tindle: Yes.

Mr. Bancroft: I think that is all.

(Witness excused.)

Whereupon, at 6:15 P. M., a recess was taken until 8:00 P. M.

4631 Evening Session.

8:00 P. M.

F. B. MONTGOMERY, was called as a witness, and having been duly sworn, testified as follows:

Examiner Burchmore: Will you please state your connection with the Deering Southwestern?

Mr. Montgomery: I am the President and General Manager of the Deering Southwestern Railway. I was going to suggest or ask, if you will permit me to make a general statement, I think I can hurry it along a great deal, and if I do not cover what you want, of course you can get it afterwards.

Examiner Burchmore: That is very good.

Mr. Montgomery: If that is agreeable and in line with that, I will start with the incorporation of this railway. It was incorporated in 1903 to run from Deering ten miles southwest. I cannot tell you the name of the point, but somewhere near Hickory Landing. In 1905 the charter was amended, and the amendment covered an extension to Hornersville. In 1910, I think July 1910, another amendment to the charter covering the line from Deering to Caruthersville. I became connected with this railway in 1905, about July, I think. At that time there was five or six miles of
4632 line built. Shortly after I became connected with the railway, as you heard testified before, your Honor, the Caruthersville people came to Chicago and took up with us the subject of building to Caruthersville; and that was early in 1906. A little later on I went down and went over the line. I rode in a wagon from Caruthersville over to Deering, and the distance is about 13 miles. The country for about nine or ten miles of that was then under cultivation and occasionally a small patch of timber was in there, but as a general thing the timber has been cut out; and as I say, the country was under cultivation, cotton, corn, wheat and everything that grows in that section. I saw an opportunity to build a line over to Caruthersville, and I thought and told our people that there was a fine opportunity to build a railroad over there, and I thought it would be a paying investment. There was a magnificent agricultural country in there to be developed and some timber to get into, small patches,

and incidentally I thought there would be an opportunity to get to the river and accomplish some good purposes for Caruthersville.

Of course the panic along in 1907 upset plans, and it was only in this year that we finally got started on the construction of the
4633 railroad. The Caruthersville people felt that we would open up a fine territory for them, and a territory that had no adequate transportation facilities. Much of the territory, at least that part west of the main line of the Frisco, which is the north and south line through Hayti there, had no facilities worth while at all. There is no station on that line, although one half mile south of where our Blazer station will be, that is at the crossing, they have a team track or a side track off of which they have been handling logs; I do not think any other kind of freight has been handled there. The line to Caruthersville is finished, that is the last spike will be driven tomorrow or certainly Thursday. We have also built about two and one-half miles of the line towards Hornersville.

Examiner Burchmore: Beginning where?

Mr. Montgomery: Two and a half miles from the end of the track. The end of the track at this time is at Converse. You will notice that down on the line.

Mr. Snow: How far is that from Deering?

Mr. Montgomery: About 10 or 11 miles from Deering, and there is still about 8 miles to build into Hornersville. We have a contract with Hornersville to build in there in a certain time, I believe the period is the end of this year. We are going ahead now
4634 building the road. The dump or the grade is virtually, well, about two-thirds completed. In order to cover the Elk Chute ditch that you see down towards the lower end of the blue print, we have to put in about 2200 feet of trestle, but we hope to get into Hornersville by the 1st of May. The line into Caruthersville we will begin operating about the 15th of February to the 1st of March. We would begin on that immediately except that part of the dump is green and soft and we want to put ballast on it in the shape of sand and silica. Of course, we expect to see considerable development through there as you heard the witnesses testify this evening; and it is my intention to handle all that traffic through there both in and out bound, that we can. We will have joint tariffs with the Frisco through Blazer on in and out bound freight, on classes as well as commodities.

Some of the benefits of this railroad to that country I think can be made apparent when I say to you that both Caruthersville and Hornersville are now local on one railroad. Caruthersville is on the Frisco, and it also has the river, of course, which is of some benefit to Caruthersvile; but Hornersville has the Paragould & Southeastern, a branch of the Cotton Belt System only, and our line building in there opens up that territory to both Caruthersville in one
4635 direction and Hornersville in the other, and we believe will give them the benefit of competition between carriers and incidentally we ought to be able to help the Hornersville people out some through the river transportation and the short haul from Caruthersville down there, the length of the line, when completed, will

be about 31½ miles. We shall operate freight trains and passenger trains and carry the mail. The government has asked us as to our facilities for transporting mail and we have made a request for a contract in the regular form. We have not yet decided as to express service. I feel that the service that is ordinarily performed by an express company we will be able to perform on our regular trains for the reason—except perhaps the store door delivery and the collection of freight.

I have a schedule or time card about complete covering trains in both directions twice a day; that is, we will make two round trips a day. I think that is about as far as I can go perhaps, unless there is something you would like me to tell you.

Examiner Burchmore: We would like to know who owns this railroad.

4636 Mr. Montgomery: The railroad stock is held in the name of individuals for the interest of the International Harvester Company.

Examiner Burchmore: The 1909 annual report to the Commission is quoted here in these words: "Its capital stock is held for the benefit of the International Harvester Company."

Mr. Montgomery: That is correct, yes.

Examiner Burchmore: What mills are there on the line?

Mr. Montgomery: There is a mill at Deering, and there are one or two little mills farther down in the timber. All of these mills belong to the Wisconsin Lumber Company.

Examiner Burchmore: And what is the relation, if any, between the Wisconsin Lumber Company and the International Harvester Company?

Mr. Montgomery: The International Harvester Company owns the Wisconsin Lumber Company's stock.

Examiner Burchmore: Are you an officer or otherwise related to the Wisconsin Lumber Company?

Mr. Montgomery: I do not occupy any official capacity, no.

Examiner Burchmore: Or with the International Harvester Company?

Mr. Montgomery: I am Manager of the Traffic Department only of the International Harvester Company, and also of the Wis-

4637 consin Lumber Company.

Examiner Burchmore: What equipment has this road at the present time?

Mr. Montgomery: We have four engines, one of them in fact is out of service, however; it has about lived its usefulness. We have 67 logging cars of the ordinary logging capacity, meaning the two trucks and a rack over the top of them. We have 12 flat cars. We have under contract ten box cars and two passenger cars, that is one straight passenger and one combination passenger and baggage car; hand cars and push cars, and that sort of thing.

Exminer Burchmore: Do any of these cars go off your line?

Mr. Montgomery: No, sir, not at this time.

Examiner Burchmore: Are any of those new cars intended to go off your line?

Mr. Montgomery: They are bought particularly for the purpose of furnishing facilities for the industries and shippers on our own line. If they are not needed there, of course we will probably use them off the line, but we are trying to look after our own industries and shippers first.

Examine Burchmore: Have you been carrying passengers?

Mr. Montgomery: We have been carrying passengers, running a mixed train.

4638 Examiner Burchmore: Have you been charging fare for those passengers?

Mr. Montgomery: Yes.

Examiner Burchmore: For how long a period have you charged fare?

Mr. Montgomery: I think ever since we began running that particular train, that is since we have been furnishing facilities for passengers; I cannot tell you the exact date, but it must be a year and a half or two years.

Examiner Burchmore: Has the Wisconsin Lumber Company any private spur tracks down in that neighborhood?

Mr. Montgomery: Yes, it has logging spurs; they are not shown on here. I gathered from something you asked a witness this afternoon that you would like to have them shown, and we would be glad to have them shown.

Examiner Burchmore: You might show them in red ink on this map.

Mr. Montgomery: Yes, I will be glad to do it or have it done. I do not know that I can locate them. One of them, however, is about one-half mile north of what is shown there as Hickoryville Landing Road, or about a mile north of there, I guess.

Examiner Burchmore: Extending in what direction?

4639 Mr. Montgomery: Extending both east and west.

Examiner Burchmore: Are you able to advise us of the length of those private tracks?

Mr. Montgomery: I do not know, I have never been on them; probably two or three miles in each direction, or something like that.

Examiner Burchmore: This map may be marked.

(The map so offered and identified, was received in evidence and thereupon marked Deering Southwestern Exhibit No. 1, Witness Montgomery, received in evidence January 24, 1911, and is attached hereto.)

Examiner Burchmore: This map has been marked Exhibit No. 1, and if you will take it and mark it——

Mr. Montgomery: I will be glad to do it.

Examiner Burchmore: Has the Wisconsin Lumber Company any equipment or rolling stock?

Mr. Montgomery: It has a small engine and a log loader.

Examiner Burchmore: Does that engine move at any time over the rails of the Deering Southwestern?

Mr. Montgomery: It has moved over our rails, but only in case

of accident to our own engine, so it would move probably once or twice in the last three or four years, that is all. These logs,
4640 it may interest you to know, are delivered at the connection of this logging spur to our main line, and there our engine and crew take hold of them and haul them up to the mill.

Examiner Burchmore: The Deering Southwestern furnishes the cars for the logs?

Mr. Montgomery: We furnish the log cars, yes, sir.

Examiner Burchmore: Then from that point of connection between the private logging spur and the main line of the Deering Southwestern your company with its own engines, hauls the logs to the mill at Deering?

Mr. Montgomery: Yes.

Examiner Burchmore: Who unloads the logs at Deering?

Mr. Montgomery: They are unloaded by the mill people. We have nothing whatever to do with them except haul them up there and put them on the side track.

Examiner Burchmore: What charge, if any, do you make for that service?

Mr. Montgomery: We make a charge of $1.00 per thousand feet on the logs; that will run about one cent per 100 pounds.

Examiner Burchmore: One cent per 100 pounds on the logs or on the lumber?

4641 Mr. Montgomery: We figure about one cent per 100 pounds on the logs; perhaps a little more than that, I do not know. They usually figure about ten pounds to the foot down in that country.

Examiner Burchmore: How far is the mill from the rails of the Frisco System at Deering?

Mr. Montgomery: The mill is between three-eighths and a half a mile; we call it half a mile; it is nearer a half than three-eighths.

Examiner Burchmore: How many mills are there at Deering?

Mr. Montgomery: Only one.

Examiner Burchmore: Will you describe the manner in which the lumber, the finished product, is handled from the transportation standpoint from that mill to interstate destinations?

Mr. Montgomery: The empty car is set on a connecting track, side track, at our connection, what we call Deering Junction, and we go there and get the empty car and spot it for loading and after it is loaded we take the car back there and leave it on that connection for the Frisco. We waybill it through to interstate destination; settlements are made through the accounting department. We also issue a bill of lading.

Examiner Burchmore: Now this blue print seems to show
4642 Deering Junction as west of Deering.

Mr. Montgomery: That is an error there, Mr. Examiner. Deering Junction is on the other side.

Examiner Burchmore: Who owns the yard tracks there at the mill?

Mr. Montgomery: They are owned by the Wisconsin Lumber Company.

Examiner Burchmore: Are they leased by the railroad?

Mr. Montgomery: No, sir; our annual report last year, I think, showed that we owned them, but since that time they have been sold to the lumber company at the actual cost.

Examiner Burchmore: Do you remember the date of that sale?

Mr. Montgomery: I cannot tell you, but I will be glad to advise you if you would like to know.

Examiner Burchmore: We would like to know.

Mr. Montgomery: Yes.

Examiner Burchmore: Those tracks were formerly owned by the Wisconsin Lumber Company and leased to the Deering Southwestern Railway, were they not?

Mr. Montgomery: No, I think they were owned; I think they were paid for and built by the railway company. I may be wrong about that. They were there, or most of them at least were
4643 there, before I had anything to do with the property or knew anything about it.

Examiner Burchmore: A report of an examination made of the property in April, 1910, by a representative of the Commission, states that he was informed there were 1.15 miles of leased track, being yard track, at Deering, and that the owner of such track was the Wisconsin Lumber Company.

Mr. Montgomery: Well, there was no lease. I do not know where your examiner got the information, but there was no lease.

Examiner Burchmore: He further indicates that the plant officials do not know that any consideration is paid for the use of those tracks.

Mr. Montgomery: Well, there was no consideration paid, because we did not lease them; at least, there was no official lease of them.

Examiner Burchmore: At the present time, however, those tracks are owned by the Wisconsin Lumber Company?

Mr. Montgomery: They are the property of the Wisconsin Lumber Company, yes, sir.

Examiner Burchmore: Are they used in any way by the railroad?

Mr. Montgomery: We use them occasionally to store empty cars on, or something of that sort, if we have them.

4644 Examiner Burchmore: Who owns the track at the mill on which the empty cars are placed and loaded?

Mr Montgomery: Well, they are all owned by the Wisconsin Lumber Company. The railroad only owns the main track through there except up the other way.

Examiner Burchmore: Do not those private tracks which are owned by the Wisconsin Lumber Company connect with the Frisco tracks?

Mr. Montgomery: No, sir.

Examiner Burchmore: Then it is not possible to get from the loading track to the Frisco in any way except over the rails of the Deering Southwestern?

Mr. Montgomery: That is correct.

Examiner Burchmore: Is it or not a fact that the Frisco formerly placed the cars on the loading track?

Mr. Montgomery: That was before my time, and I really cannot tell you. The railway was incorporated in 1903. I take it since that time, at least, all the work was done by them. When I had to do with it in 1905, since that date at least, the railroad has done all the work.

Examiner Burchmore: What is the length of the haul that they perform?

Mr. Montgomery: The length of the haul varies all the
4645 way from a quarter to a half a mile, I should say: that is their loaded haul.

Examiner Burchmore: The Deering Southwestern Railway is and has been a party to the joint rates with the Frisco System?

Mr. Montgomery: With the Frisco, yes, sir.

Examiner Burchmore: I refer particularly to lumber and forest products.

Mr. Montgomery: Yes.

Examiner Burchmore: Are those rates the same as the rates from stations in that territory on the Frisco proper?

Mr. Montgomery: Yes, sir.

Examiner Burchmore: What is the division or allowance?

Mr. Montgomery: The Deering Southwestern gets two cents per 100 pounds.

Examiner Burchmore: Under all rates?

Mr. Montgomery: Yes—well, to nearby local stations on the Frisco, of course, there is a combination of locals; but to all interstate points and St. Louis and——

Examiner Burchmore: What is your billing station at the mill?

Mr. Montgomery: Deering.

Examiner Burchmore: Deering on the Deering Southwestern?

4646 Mr. Montgomery: Yes.

Examiner Burchmore: What is the local rate from Deering on the Deering Southwestern to Deering on the Frisco?

Mr. Montgomery: There is but one Deering down there. The Frisco carry Deering in their tariff by error. It has been carried that way for a number of years.

Examiner Burchmore: You refer to a combination of locals. I want to know what the local was?

Mr. Montgomery: Well, our local would be two cents per 100 pounds, the same as our proportion up to Deering Junction.

Examiner Burchmore: And where there are no joint rates you would really charge two cents over the Frisco rate?

Mr. Montgomery: Yes.

Examiner Burchmore: Are the rates on a milling in transit basis?

Mr. Montgomery: No, sir.

Examiner Burchmore: Have there ever been milling in transit rates?

Mr. Montgomery: Not since I have had to do with it, and I do not know before that.

Examiner Burchmore: Is not your station known as Deering Junction?

4647 Mr. Montgomery: We have Deering and Deering Junction; Deering Junction is where we connect with the Frisco.

Examiner Burchmore: Then your local is from Deering to Deering Junction?

Mr. Montgomery: From Deering to Deering Junction, yes, sir. Of course, our connection now with the Frisco is at Blazer; that is where our deliveries will be made.

Examiner Burchmore: What is the mileage from Deering to Blazer?

Mr. Montgomery: About seven miles.

Examiner Burchmore: What would become of the line of the Frisco from Deering to Pascola when you cease to interchange traffic with them at that point?

Mr. Montgomery: I really do not know. Of course, that is up to the Frisco. One of their officials stated to me recently that he would be very glad to get rid of that excuse for a railroad down there.

Examiner Burchmore: Pascola is on two lines of the Frisco apparently.

Mr. Montgomery: Two branches, yes, sir; one branch runs from Caruthersville down to Kennett, Mo., a little town not shown on that map, some 5 or 10 miles west of what is shown on the

4648 map; and the other runs through Deering to a little town known as Wardell, about 6 or 7 miles east of Pascola; these were all logging lines. The Kennett line was a logging line built by Mr. J. C. Houck, as I understand, and there is really nothing on that line except logs and timber products.

Examiner Burchmore: When was the line from Deering to Pascola built?

Mr. Montgomery: I don't remember.

Examiner Burchmore: Was it built in the interest of the International Harvester Company or its subsidiary companies?

Mr. Montgomery: I do not think so; I do not know about that.

Examiner Burchmore: I notice about half of that line is over land of the Wisconsin Lumber Company, the south half.

Mr. Montgomery: Well, it runs into the Wisconsin Lumber Company's property at two or three places.

Examiner Burchmore: Do they haul any lumber for your company?

Mr. Montgomery: No, I think not; I am sure they do not.

Examiner Burchmore: It is all cut out, is it?

Mr. Montgomery: Well, it has been cut over, I think that land up there; of course they just touch the Wisconsin Lumber

4649 Company's land in two or three spots, but there is timber in there being taken out by a concern at Pascola, the Pascola Stave Company, I think.

Examiner Burchmore: What other stations are there on your line at the present time, disregarding the extension, besides Deering and Deering Junction?

Mr. Montgomery: I will get the list, if you will permit me.

(Referring to paper) Deering Junction will not appear on our new line or on our extension to Caruthersville, because we will not make any interchange there and there is nothing else there except that connection. The next station will be Braggadocio, which——

Examiner Burchmore: I was asking first with reference to the present line without regard to the extension.

Mr. Montgomery: That would be in the other direction from Deering.

Examiner Burchmore: Yes, the old line.

Mr. Montgomery: There is Reeds Mill, about 3.8 miles south of Deering; that shows on there perhaps you will discover.

Examiner Burchmore: Yes.

Mr. Montgomery: Then there is Nicholson, County Line,
4650 Gobler, Hickory Landing Road, Hickoryville Junction.

Right there, Mr. Examiner, Hickoryville Junction is erroneously placed on there; that should be north of Hickory Landing Road really. I do not know, our engineer made several bungles on this map. And then Converse, which is the end of the line. Hickoryville Junction is where this logging line of the Wisconsin Lumber Company goes off.

Examiner Burchmore: Did the engineer make this blue print from an examination of the road?

Mr. Montgomery: He has been over the road several times.

Examiner Burchmore: Perhaps he overlooked the stations as he passed by.

Mr. Montgomery: Probably so.

Examiner Burchmore: What is there at these different stations passing tracks?

Mr. Montgomery: There is little or nothing at this time. Those stations were where the logging spurs of the Wisconsin Lumber Company branched out into the timber at different times, and they were established there, and the timber is cut over and we expect it will be cleared and used there by farmers.

Examiner Burchmore: Where is the station located that is
4651 referred to in your tariffs by the name of Camp.

Mr. Montgomery: Camp is really the end of the line, and now Camp does not exist. Converse is really the same as Camp.

Examiner Burchmore: Was that a migratory station?

Mr. Montgomery: Yes, it was; as the line was extended we would call it Camp rather than name it something else.

Examiner Burchmore: I understood you to say there have been no milling in transit arrangements on this road so far as you are advised since your connection with it.

Mr. Montgomery: That is correct.

Examiner Burchmore: I have what purports to be a copy in lead pencil of the substance of St. Louis & San Francisco I. C. C. No. 5514, Joint Freight Tariff No. 200-C, to which the Deering Southwestern Railway is a party, Supplement No. 44, effective 11-1-08, stopping shipments in transit: Shipments moving from points on the Arkansas Eastern Railway and other lines named, including the Deering Southwestern Railway, may be stopped at points on these

lines or at junction points of delivery to this line, for the purpose of storing, sawing, re-sawing or further manufacture into articles described in tariff and the through rate in effect at the time the shipment leaves point of origin to final destination to be
4652 applied to the commodity re-shipped. Endorsed: "Copied at Tariff Bureau of the Commission, April 30, 1910."

Mr. Montgomery: Are we shown as a party to that?

Examiner Burchmore: Yes, sir, in this copy.

Mr. Montgomery: Have we filed our concurrence?

Examiner Burchmore: I do not know.

Mr. Montgomery: I do not think so, no, not to my knowledge, at least we have never used any milling in transit basis there that I remember.

Examiner Burchmore: Well, the report of the examiner visiting your property at the time mentioned a few minutes ago, indicates that outbound lumber is handled on joint rates under the milling in transit arrangement.

Mr. Montgomery: Well, I do not know, of course, where he got his information.

Mr. Snow: What is the date of that report?

Examiner Burchmore: April, 1910.

Mr. Montgomery: That may be simply carried in the tariff, but we have never considered that we were ever using a transit rate at all, Mr. Examiner.

Examiner Burchmore: Well, are you sure that as a matter of fact the Frisco did not formerly place the empty cars at the mill
4653 and take away the loaded cars?

Mr. Montgomery: Not since I have been there.

Examiner Burchmore: I do not mean at the mill, but at the storage track there near the mill?

Mr. Montgomery: Well, down at the connection with us—the Frisco, I think I can explain perhaps some of that to you—the Frisco came in there and as a general thing they take water at the Wisconsin Lumber Company's mill. They do take their whole train up there, and they have a caboose on this train and they carry a few passengers. The service is very poor in there; the train comes in there at any time between nine o'clock in the morning and noon, and goes right out immediately. All they do is to pick up the cars and go right out; there is a lapse of ten minutes in the time card of the train there. They probably bring their whole train up to the mill while they take water, and the interchange is certainly at the point of connection which I spoke of there.

Examiner Burchmore: And commencing with February 1st or March 1st——

Mr. Montgomery: It will be at Blazer.

Examiner Burchmore: Do you have any agent at Deering or Deering Junction?

Mr. Montgomery: We have an agent at Deering, yes, sir;
4654 not at Deering Junction.

Examiner Burchmore: Is he employed also by the Wisconsin Lumber Company?

Mr. Montgomery: No, he is not. We have appointed a new agent in there within the last 15 days, since the line was completed out to Blazer; his name is R. G. Ransome. He has no connection whatever with the lumber company.

Examiner Burchmore: Has your agent at Deering heretofore been an employé of the lumber company?

Mr. Montgomery: Heretofore we have used some of the clerical help of the lumber company.

Examiner Burchmore: They issue through bills of lading?

Mr. Montgomery: Yes, sir.

Examiner Burchmore: Joint waybills?

Mr. Montgomery: Joint through way bills, yes, sir.

Examiner Burchmore: Do those waybills show the through rate or simply the proportion of the rate retained by the Deering Southwestern?

Mr. Montgomery: I really cannot tell. I have not seen a copy. I know we bill to destination and settle through the accounting department.

Examiner Burchmore: Your local rate on soft coal from
4655 Deering to Deering Junction is one cent per 100 pounds?

Mr. Montgomery: One cent per 100 pounds.

Examiner Burchmore: Less than carload freight, what is your local rate?

Mr. Montgomery: Five cents per 100 pounds.

Examiner Burchmore: That is from Deering to Deering Junction?

Mr. Montgomery: Yes.

Examiner Burchmore: What will be the rate down to——

Mr. Montgomery: There has been a general rate in there until this new line extension, when we put in the Missouri distance tariff rate. That tariff was filed with the Commission and took effect January 1st, but due to several clerical errors or oversights in the tariff instructions, we are amending it now.

Examiner Burchmore: Where are the books of account of the Deering Southwestern?

Mr. Montgomery: The books are kept at Deering, Mo. Under the Missouri law they are required to be kept there, and also copy, of course, is kept.

Examiner Burchmore: Who is the chief accounting officer?

Mr. Montgomery: A. G. Huckin is the Auditor, and his
4656 office is in Chicago.

Examiner Burchmore: What other officers has this railroad besides yourself and Mr. Huckins?

Mr. Montgomery: Mr. Huckin is also general freight agent of the railroad, and he has a chief clerk and five or six assistants, that is clerks, in the office; and it has a Vice President, Mr. S. D. Snow. It has a Secretary and Treasurer, and it has an engineer of construction and a superintendent, nine trainmen and 14 section men, and a section foreman. That is the regular force. At this time, of course, we have a large construction force at work on the line.

Examiner Burchmore: What are the salaries of those general officers as paid by this railroad?

Mr. Montgomery: They are paid by this railroad, yes.

Examiner Burchmore: I mean what are their salaries from this railroad?

Mr. Montgomery: How much, do you mean?

Examiner Burchmore: Yes. I suppose they are not considerable in amount.

Mr. Montgomery: Well, these officers are also officers of two or three other roads, the Illinois & Northern, the Chicago, West
4657 Pullman & Southern, with which you are doubtless familiar.

Examiner Burchmore: Yes, I just inquired as to what their salaries are from this railroad.

Mr. Montgomery: From this railroad their salaries are—no, not very considerable. Do you want the amount?

Examiner Burchmore: Some or all of them.

Mr. Montgomery: I think I can give you the amount. For example, Mr. Huckin's salary as Auditor and General Freight Agent is $430 a year; and the others are something in proportion to that.

Mr. Snow: I think you mean that is the proportion paid him by the Deering Southwestern.

Mr. Montgomery: Yes. That is not Mr. Huckin's salary by any means. I thought you understood the point exactly.

Examiner Burchmore: I assumed he got somewhere from $5.00 to $50.00 a month from this railroad.

Mr. Montgomery: From this railroad, yes, sir. Of course, the chief clerk and the clerical help in Mr. Huckin's office their salaries are distributed among the several railroads I have spoken of.

Examiner Burchmore: That distribution is made as nearly as possible on an equitable basis.

4658 Mr. Montgomery: Yes, sir, on the basis of traffic as nearly as we have been able to figure it.

Examiner Burchmore: What traffic has the Deering Southwestern Railway handled in the past other than that furnished by the Wisconsin Lumber Company?

Mr. Montgomery: It has handled traffic for the account of other people, a number of other people, but the lumber and timber and so forth of course originates on the land of the Wisconsin Lumber Company and the inbound, you might say, is for the account of the Wisconsin Lumber Company.

Examiner Burchmore: Practically all the tonnage is Wisconsin Lumber Company traffic?

Mr. Montgomery: Well, Wisconsin Lumber Company and some for the International Harvester Company, of course. I have not prepared any statistics. I will be very glad to file the statistics, if you like, as to our tonnage, and for whose account the transportation is performed.

Examiner Burchmore: Well, I think we should like to have some figures.

Mr. Montgomery: I will be glad to do that.

Examiner Burchmore: I would like to know now if it is not a fact that the Wisconsin Lumber Company and the International

Harvester Company and their employees have forwarded or
4659 received practically the entire traffic that this road has handled in the past.

Mr. Montgomery: Or their employees? I do not think I get your point there.

Examiner Burchmore: I mean you may have some traffic moved in there——

Mr. Montgomery: Oh, inbound; yes; I should say that is correct, but the outbound, there is a little of that traffic which is sold f. o. b. cars at the mill, and the transportation is not performed for the account of either of those corporations.

Examiner Burchmore: I understand, but it is lumber or forest products in which they have had an interest.

Mr. Montgomery: Well, they owned the timber, of course, and sawed the lumber.

Examiner Burchmore: Have you the total operating revenues and operating expenses for the past fiscal year, or years available here?

Mr. Montgomery: I have them for 1909 and 1910. I have copies, at least, of them. Of course, these are all filed with the Commission.

Examiner Burchmore: Just give the figures.

4660 Mr. Montgomery: These were the figures which were taken off of the reports to the Commission.

Examiner Burchmore: Do you desire to file that as an exhibit?

Mr. Montgomery: I did not intend to file it. I will be glad to read in anything you wish.

Examiner Burchmore: Suppose you read the totals of the expenses and revenue.

Mr. Montgomery: The total operating revenue for the year ending June 30th, 1910, was $23,836.94. The total operating expenses for the same period was $22,662.89. Net operating revenue $1,174.05.

Examiner Burchmore: I understood you to say when you first became connected with this company in 1905, there were five or six miles of this road built and in operation.

Mr. Montgomery: Yes, as I recollect it, the line was at that time either to Nicholson or County Line as shown on here.

Examiner Burchmore: Were there at that time any private tracks extending on in the same general direction?

Mr. Montgomery: Beyond those points?

Examiner Burchmore: Yes.

Mr. Montgomery: No. The only tracks of any sort there were the logging spurs which ran into the timber to the east towards the Mississippi River.

4661 Examiner Burchmore: When was the next extension of the line made?

Mr. Montgomery: Well, the line has been extended at several different times; I cannot recall the exact date.

Examiner Burchmore: It has not been extended as a railroad by the taking over of logging lines previously laid down.

Mr. Montgomery: None whatever. It may interest you to know that the line from Deering down to about County Line there, is laid, as I recall it now, with 60-pound steel. Beyond there to Converse, and also from Deering to Caruthersville, the rails are 75-pound steel, and from that you will get an idea how the line is built, for an entirely permanent purpose.

Examiner Burchmore: What sort of a town is Deering and what is its population?

Mr. Montgomery: Deering has a population at this time of about 375 people. It is the mill town of the Wisconsin Lumber Company. I presume most of those people are employés or the families of the employés of that company.

Examiner Burchmore: That is a company town?

Mr. Montgomery: Yes, I think that is what it would be called.

Examiner Burchmore: From this blue print it might be
4662 assumed that the town was owned by the Wisconsin Lumber Company, that is the ground.

Mr. Montgomery: I think the ground is owned by them, yes, sir.

Examiner Burchmore: The houses are owned by them and rented to employés, are they not?

Mr. Montgomery: I think so. I cannot really tell you about that because I do not know anything about it.

Examiner Burchmore: Do you know whether they run the store or stores?

Mr. Montgomery: There is a store there, I think, run by them.

Examiner Burchmore: In connection with the Frisco you mentioned in your opening statement some logs, I have forgotten what those logs were.

Mr. Montgomery: What is that, Mr. Examiner?

Examiner Burchmore: In connection with the Frisco in your opening statement you said something about some logs moving?

Mr. Montgomery: Logs?

Examiner Burchmore: Yes, in connection with the Frisco, and I wanted to ask you about it.

Mr. Montgomery: I do not remember. Was that on that line up to Pascola, is that what I was talking of?

4663 Examiner Burchmore: No.

Mr. Montgomery: I really don't remember.

Examiner Burchmore: I think you mentioned there was some loading point south of Blazer where the Frisco handled a good many logs.

Mr. Montgomery: Half a mile south of Blazer the Frisco have a track in there where they load logs.

Examiner Burchmore: Whose logs are those, do you know?

Mr. Montgomery: I really don't know.

Examiner Burchmore: You do not know where they go?

Mr. Montgomery: I do not know where they go.

Examiner Burchmore: At the bottom of the blue print is the Missouri-Arkansas State Line?

Mr. Montgomery: Yes.

Examiner Burchmore: And the land or timber holdings of the Wisconsin Lumber Company seem to end right at the State Line, at least there is a cross mark.

Mr. Montgomery: I think that is correct. I cannot testify positively as to that, but I think that is correct.

Examiner Burchmore: I wondered if they did not have some timber land across the line down in Arkansas?

Mr. Montgomery: I do not think so, but I could not say.

Examiner Burchmore: Is it not one purpose of the exten-
4664 sion of the line from Hickoryville down into Hornersville or in that direction to open up additional forests of the Wisconsin Lumber Company?

Mr. Montgomery: Of course it runs through the Wisconsin Lumber Company's timber lands, and it naturally will open them up as it goes through there.

Examiner Burchmore: It runs through those timber lands and for the entire distance, at least as far as the Paragould Southeastern Railroad.

Mr. Montgomery: From Deering, yes.

Examiner Burchmore: Are you going to get trackage rights over the Paragould Southeastern across the river?

Mr. Montgomery: Yes, sir, we hope to, we are trying to close a contract to that effect.

Examiner Burchmore: It is not the intention to build a new trestle across the Little River?

Mr. Montgomery: We do not want to. It will cost a large amount.

Examiner Burchmore: Who owns the right of way on which is laid the rails of the Deering Southwestern?

Mr. Montgomery: A 50-foot strip is owned by the railroad.

Examiner Burchmore: It was purchased from whom?

4665 Mr. Montgomery: The Wisconsin Lumber Company.

Examiner Burchmore: Do you remember on what basis?

Mr. Montgomery: The fact is the right of way was given to the Deering Southwestern, and that is also true of a right of way for the Paragould & Southeastern that you see shown there. They also gave that line a right of way through there.

Examiner Burchmore: Was that originally a tap line?

Mr. Montgomery: I do not know. I would not be surprised. All the railroads in this part of the county were originally so-called tap lines for the purpose of taking timber out, logging.

Examiner Burchmore: Were you influenced in building down or planning to build down to Hornersville by the idea of getting a new connection with another railroad, another outlet to the Cotton Belt.

Mr. Montgomery: Primarily we were influenced in building down there by the Hornersville people; they were anxious to have us come in there. We did not overlook any of the advantages in going to Hornersville and among them being that of another line of railroad. Of course, we try to see everything of that sort there is in sight.

Mr. Snow: You have enumerated the various employés of the

Deering Southwestern Railway; the office force and the operators, trainmen and all that sort of thing. I wish to ask you
4666 whether any of those various employés are in the employ or perform any duties or receive any compensation from either the Wisconsin Lumber Company or the International Harvester Company?

Mr. Montgomery: They do not.

Mr. Snow: None of them?

Mr. Montgomery: Not in any way.

Mr. Snow: Their duties then are entirely in the railroad service?

Mr. Montgomery: For the Deering Southwestern Railway and several others I mentioned, of course.

Mr. Snow: Will you refer to your map before you, or to your list of stations, and tell us what is the first station located on the line of your railroad west of Caruthersville?

Mr. Montgomery: West of Caruthersville the first station is Tyndall.

Mr. Snow: This is located how far from the City of Caruthersville?

Mr. Montgomery: Well, that is about three miles from the station in Caruthersville.

Mr. Snow: What was the object and purpose of locating that station there?

Mr. Montgomery: Well, the object was, in serving the
4667 town of Game, which is just a short distance below there, and up to that time which had no direct railroad transportation.

Mr. Snow: Do you know what the population of Game and the settlement there is?

Mr. Montgomery: I think in Game and right surrounding there probably 150 people.

Mr. Snow: Is there any business done at Game?

Mr. Montgomery: Yes, there are four stores and a small grist mill there, as I recall it.

Mr. Snow: What is the next station west, and why was that located where it was?

Mr. Montgomery: The next is called Sherrill; that was about two miles west of Tyndall, and was located there because at that point the country roads seem to come together and we felt that by having a station there we could serve the people living in that community; these roads affording easy access to the railroad line there.

Mr. Snow: Will the Deering Southwestern Railroad at Tyndall or Sherrill station handle any traffic for the Wisconsin Lumber Company?

Mr. Montgomery: No.

Mr. Snow: Or the International Harvester Company?

4668 Mr. Montgomery: No, none whatever.

Mr. Snow: What sort of freight will be handled at these stations?

Mr. Montgomery: Well, at this time it seems clear that products of agriculture, almost exclusively, will be handled. There may be

some little timber around in that territory but I do not think very much. Cotton, wheat, corn and hay.

Mr. Snow: What is the next station west?

Mr. Montgomery: The next station west is Blazer.

Mr. Snow: Where is that located?

Mr. Montgomery: Blazer is 6.8 miles west of the Caruthersville station, and at that point we cross the main line of the Frisco Railway, and there is where the interchange of freight will take place beween the railways.

Mr. Snow: Is that an agency station located at Blazer?

Mr. Montgomery: Blazer will be an agency station, yes.

Mr. Snow: All of the lumber and forest products and other commodities in and out of Deering will be interchanged with the Frisco at Blazer station?

Mr. Montgomery: At Blazer.

Mr. Snow: And that is a distance of how far, did you say, from Deering?

Mr. Montgomery: From Deering it is a matter of about
4669 seven miles.

Mr. Snow: What is the next station west?

Mr. Montgomery: The next station west is Farris, Farris Switch, Farris Swith is 8.6 miles west of Caruthersville.

Mr. Snow: Any particular purpose or object in locating that station there?

Mr. Montgomery: That station was located there for the same reason that Sherrill was located where it is, because the country roads converge at that point, and incidentally Mr. Farris, a very large farm owner there, asked us when we were building through there if we would give him a switch and a station for himself, and for the general public at that point.

Mr. Snow: Will any traffic of the Wisconsin Lumber Company or the International Harvester Company be handled at that station?

Mr. Montgomery: No, none whatever.

Mr. Snow: Have they any industries or interests or forest at that point to be served by the railroad?

Mr. Montgomery: No interests whatever that I ever heard of.

Mr. Snow: And what is the next station on your line west?

Mr. Montgomery: Braggadocio, 10.4 miles west of Caruthersville.

4670 Mr. Snow: What is there at Braggadocio?

Mr. Montgomery: It is a settlement of 300 or 400 people, I should say, with four or five stores. When I say that much population, of course, I mean within a radius of half a mile around Braggadocio.

Mr. Snow: Is this station one at which the Wisconsin Lumber Company or the International Harvester Company will do any business?

Mr. Montgomery: None whatever.

Mr. Snow: Was it established there for the accommodation of these companies?

Mr. Montgomery: Neither of them will have any service performed there by this railway that I know of.

Mr. Snow: Was the station located there at any special request of the citizens of the town of Braggadocio?

Mr. Montgomery: The station was located there at the request of the Braggadocio people, yes, sir.

Mr. Snow: What, if anything, have the citizens and towns-people at Braggadocio done towards the promotion and extension of this railroad through their town to Caruthersville?

Mr. Montgomery: They gave us a five acre plot at that point at which to locate this station and also $1,000 in money; that is in the shape of a contract, as I recall it.

4671 Mr. Snow: The distance between Braggadocio and Caruthersville is what, along the line of this road?

Mr. Montgomery: 10.4 miles along the line of this road.

Mr. Snow: Does that extend through the timber at all?

Mr. Montgomery: There is some little timber, but very little.

Mr. Snow: How much timber?

Mr. Montgomery: Oh, probably, I should say, a mile altogether of the ten miles is through timber.

Mr. Snow: What is the balance of the land through which this road extends for that distance?

Mr. Montgomery: Very rich farm country, well settled up, thickly settled up.

Mr. Snow: Has the Wisconsin Lumber Company or the International Lumber Company any interest whatever, or any lands to be served by the Deering Southwestern Railway between these points?

Mr. Montgomery: None whatever.

Mr. Snow: Was the Deering Southwestern Railway extended from Braggadocio east to Caruthersville and the Mississippi River with any intention of benefiting either of these companies.

Mr. Montgomery: I do not understand so. It was ex-
4672 tended at the request and to satisfy the Caruthersville people and the Braggadocio people and serve the interests in between there.

Mr. Snow: You have personally conducted negotiations with the people of Caruthersville and Braggadocio with reference to the extension of this line, have you?

Mr. Montgomery: Yes, I have.

Mr. Snow: What was done by the citizens of Caruthersville to induce the building of this line into their city?

Mr. Montgomery: The citizens of Caruthersville gave us the entire right of way between Braggadocio and Caruthersville and 20 acres of terminal property inside of the city limits of Caruthersville. Now in connection with that right of way we paid, I think, $3200, to help the Caruthersville people out.

Mr. Snow: What are the business interests located in or about Caruthersville; by that I mean factories, manufacturing plants, stores and that sort of thing, who are interested in and will be shippers over the line of your railroad?

Mr. Montgomery: There are quite a number of them; I have a list of them here, if you would like it.

Mr. Snow: We have a list here which I am going to hand to you which purports to show a list of the merchants and manu-
4673 facturers at both Braggadocio and Caruthersville. I will ask you if you will, to examine that and state whether or not it was prepared under your direction, and what it contains?

Mr. Montgomery: Yes, this list was prepared under my direction and contains a list of the merchants, manufacturers and shippers generally at Braggadocio and Caruthersville.

Mr. Snow: We would like to file that as an exhibit.

(The paper so offered and identified, was received in evidence and thereupon marked Deering Southwestern Exhibit No. 2, Witness Montgomery, received in evidence January 24, 1911, and is attached hereto.)

Examiner Burchmore: With reference to that list, what is the total tonnage you expect those shippers to furnish in the course of a year?

Mr. Montgomery: Well, that is rather hard to state anything very intelligently on, Mr. Examiner, but this is a rich country through here, and as I say, thickly settled up. It grows corn, cotton, wheat and hay in immense quantities, and naturally consumes a great deal of merchandise of all kinds, and we expect to do everything we can to persuade those people to ship all of that over our line. I intend to have a soliciting agent in there to build
4674 up that business.

Mr. Snow: It is a fact, is it not, that the greater part of the business men included in that list, have personally contributed money to the building of this railroad and the purchasing of the right of way, and have stated and said that they would handle some of their business over our line.

Mr. Montgomery: Yes, quite a number of them. I would not venture a statement as to the number.

Mr. Snow: The larger part of them?

Mr. Montgomery: I would say a large number of them, yes, sir.

Mr. Snow: And it is a fact, is it not, that a large number of them have subscribed to the fund which was raised by the city.

Mr. Montgomery: I have not seen the subscription list but I understand it was general throughout the town.

Mr. Snow: Between Braggadocio and Caruthersville along the right of way of the Deering Southwestern, what is the character of the crops produced and raised, just in a word. I think perhaps that has been given.

Mr. Montgomery: It is agricultural products of all sorts in there.

4675 Mr. Snow: Do you know whether or not the Wisconsin Lumber Company owns the land or any part of the land over which the Deering Southwestern extends from Deering to Caruthersville?

Mr. Montgomery: Yes, it does.

Mr. Snow: How much of that land?

Mr. Montgomery: I should say between Deering and—oh, between Deering and Caruthersville?

Mr. Snow: Yes.

Mr. Montgomery: Probably a matter of a mile and a half altogether, I should say there.

Mr. Snow: By that you mean that the Wisconsin Lumber Company owns about a mile and a half of the land adjoining the right of way of that road?

Mr. Montgomery: Yes.

Mr. Snow: The adjoining land for the remaining distance t. Caruthersville is owned by other individuals?

Mr. Montgomery: Well, it is owned by a lot of individuals. Their names are shown on this blue print.

Mr. Snow: None of them have any financial interest or otherwise in the Wisconsin Lumber Company?

Mr. Montgomery: I never heard of it if they have, no. If I may interrupt just a minute, I think I have overlooked one
4676 station that we are locating, and that is Ward Avenue in the City of Caruthersville; we will have two stations in Caruthersville, one around near the river and the other at Ward Avenue, that is the west side of the town about a mile from the station first referred to. That station was located there at the request of several or a few of the Caruthersville people who will live out nearer there than they do — the other one, and they thought it was a matter of convenience to them, and as we are going to operate this for the benefit of the traveling public and shippers, we were very glad to put in a flag station there, and that is all it will be.

Mr. Snow: What are your terminal facilities in Caruthersville?

Mr. Montgomery: We are trying to make a contract with the Frisco Railway for joint use of their terminals for the time being. We have this 20 acre plot in there, but we are not yet ready to build our yard and terminals on that, so I thought we might as well use the Frisco if we could arrive at satisfactory terms, and I think we can.

Mr. Snow: Are these tracks of the Deering Southwestern Railway built over, upon or across any of the public streets of that city?

4677 Mr. Montgomery: They are.

Mr. Snow: Under what authority, if you know, are they so built as will — the railroad be operated?

Mr. Montgomery: Under an ordinance of the City Council signed by the Mayor of the city.

Mr. Snow: Are you familiar with that ordinance?

Mr. Montgomery: I have read the ordinance, yes, once or twice.

Mr. Snow: I will ask you to examine this copy (handing paper) and see if it is a copy of the ordinance of the City Council of the City of Caruthersville.

Examiner Burchmore: As a matter of fact it will be sufficient if you state it is a copy, Mr. Snow.

Mr. Montgomery: Yes, this is a copy.

Mr. Snow: I will state it is a copy, and I want to introduce it in evidence, as it contains the authority of that railroad to operate over those public highways.

(The paper so offered and identified, was receive in evidence and thereupon marked Deering Southwestern Exhibit No. 3, Witness Montgomery, received in evidence January 24, 1911, and is attached hereto.)

Mr. Montgomery: You already have a copy of that.

Mr. Snow: Not in this record, however.

4678 Mr. Montgomery: No, not in this record.

Mr. Snow: I have copies of three contracts made with the citizens of Caruthersville and Braggadocio and Hornersville respectively. These contracts provide for the furnishing and procuring of the right of way by deed by the citizens and the donation of certain sums of money and they further constitute a contract between the citizens of those various towns and the railroad to operate this as a public railroad for their use and convenience and benefit during the period of years. Those contracts have been filed with the Commission, and I wish to ask if it will be necessary for me to file them in this record, or will they be admitted as evidence.

Examiner Burchmore: If they are filed with the Commission they will be considered as in evidence by a mere reference to them.

Mr. Snow: Very well.

Examiner Burchmore: What period of years do they cover, may I ask?

Mr. Snow: A period of ten years.

Mr. Coleman: What is the gist of them?

Mr. Snow: If you desire, I will read them.

Mr. Coleman: No.

Mr. Snow: The gist of them is to the effect that the Deer-

4679 ing Southwestern will operate at least one train a day for the carriage of both passengers and freight from Caruthersville to Hornersville and for a period of ten years, and in case they fail to comply with that agreement with them there is a forfeiture clause with reference to the right of way which was donated to the company.

Examiner Burchmore: They will simply forfeit their right of way?

Mr. Snow: Yes. That right of way was purchased and secured by these citizens for the railroad.

Mr. Montgomery: Am I correct in understanding that the forfeiture is the money that this right of way cost?

Mr. Snow: Let us see just what it is, as long as that question has been asked. It has been some time since I read the contracts. They were made some time ago:

"Said Second Party further stipulates and agrees with said First Parties to operate and maintain on its railroad between the points herein stated, both daily freight and passenger trains, and to, in every way, perform the duties of a common carrier in the transportation of freight and passengers for the public whenever and

wherever its service may be required and in accordance with
4680 the law from and after the completion and building of its railroad between the points herein stated, and that the maintenance and operation of its trains between Caruthersville, Missouri, and Deering, Missouri, shall continue after said railroad shall have been built for at least a period of ten (10) years from and after May 1, 1911, and the maintenance and operation of its trains between the extension of said railroad from Deering, Missouri, to Hornersville, Missouri, shall continue after said extension shall have been built for at least a period of ten (10) years from and after May 1, 1912; and agrees that if said railroad, between the points as herein stated, be not operated and maintained for both daily freight and passenger service for a period of ten (10) years from and after the dates above stated, then the cost of securing the right of way and terminals herein described shall be repaid to the First Parties herein."

Mr. Montgomery: That was my recollection.

Mr. Snow: Your recollection was as usual, entirely correct.

Examiner Burchmore: How long will you be cutting timber down in this vicinity?

Mr. Montgomery: Really, I have not any idea.

Examiner Burchmore: As long as ten years?

4681 Mr. Montgomery: I do not really know. I think it is entirely proper for me to say that had nothing to do with that contract however, nor the period covered by it.

Examiner Burchmore: Does that clause in the contract evidence any doubt in the minds of the Caruthersville people as to the permanent character and bona fide character of this railroad?

Mr. Montgomery: I really don't know.

Mr. Snow: They are putting up good money for it, and want to be sure they are getting their money's worth.

Mr. Coleman: Why did they fix that ten year period?

Mr. Snow: It was a suggestion by them that they wanted a contract for at least ten years. We did not put it in on our own suggestion.

Examiner Burchmore: If the railroad stays ten years they will get their money's worth anyhow.

Mr. Snow: Well, we hope so. We hope to give them the service. I will ask you how this right of way has been secured, if you know, by purchase, donation, condemnation or how?

Mr. Montgomery: Well, some of it, of course, has been bought. I understand some of it was donated and certainly ten different parcels of the right of way have been condemned by the
4682 Deering Southwestern Railway under the right of eminent domain.

Mr. Snow: Under the right of eminent domain under the State law?

Mr. Montgomery: Yes.

Mr. Snow: I think you have stated what the character of the rail was as laid?

Mr. Montgomery: Yes, sir, 75 pound.

Mr. Snow: Do you know what the maximum grade of the road is?

Mr. Montgomery: Not to exceed one-half per cent.

Mr. Snow: How about the curvature?

Mr. Montgomery: Well, the curvature is very light with the exception of one place in Caruthersville where we have about a seven degree curve. The rest of it is three or four.

Mr. Snow: How much bridge and trestle work have you along the right of way?

Mr. Montgomery: When the line is completed into Hornersville we will have a mile altogether in the 31 miles.

Mr. Snow: Have you stated what the authorized capital stock of the Deering Southwestern is?

Mr. Montgomery: The capital stock is $400,000 paid in in cash.

4683 Mr. Snow: That has been issued, has it?

Mr. Montgomery: That has been issued.

Mr. Snow: And paid for?

Mr. Montgomery: Paid for, yes.

Mr. Snow: Does the Deering Southwestern file with the Interstate Commerce Commission in accordance with the law?

Mr. Montgomery: It does.

Mr. Snow: Does it make to that body its annual and monthly and special reports?

Mr. Montgomery: It does, every report that is either required or asked for by the Commission.

Mr. Snow: Are its accounts kept in accordance with the prescribed forms and rules of the Commission?

Mr. Montgomery: Strictly so.

Mr. Snow: Is the Deering Southwestern, if you know, recognized by the Missouri State Railroad Commission, as a public railroad, and under its jurisdiction and control?

Mr. Montgomery: It is.

Mr. Snow: Does it file its reports to that body?

Mr. Montgomery: Yes.

Mr. Snow: Does it file its freight tariffs with that body?

Mr. Montgomery: It does.

4684 Mr. Snow: Has the Deering Southwestern filed any passenger tariffs?

Mr. Montgomery: We have not filed a passenger tariff. The Missouri State Law does not require us to file one. The only tariffs we have issued has been a local tariff between stations on our line. That has not been filed with the Interstate Commerce Commission. We will be very glad to file one if the Commission likes. It is on the basis of three cents per mile. The Missouri statutes would allow us four cents a mile, but we are only going to charge three, but if we issue any joint passenger tariffs with the Frisco on interstate traffic, of course it will be filed.

Mr. Snow: So far as you know now, the passenger service will be wholly a local service?

Mr. Montgomery: I think so.

Mr. Snow: There will be no through tickets issued?

Mr. Montgomery: No; at least I see no occasion for issuing tickets at this time.

Mr. Snow: Does the Deering Southwestern Railway comply with the Federal law with reference to equipping its locomotives and cars with safety appliances?

Mr. Montgomery: It does.

Mr. Snow: Does it also comply with the state laws in that
4685 respect?

Mr. Montgomery: It does.

Mr. Snow: You referred in your statement, or else in response to an inquiry by the Examiner, the fact that there was a connection formerly of the Deering Southwestern with the Frisco at a station called Deering Junction.

Mr. Montgomery: Yes.

Mr. Snow: And that station has now been discontinued?

Mr. Montgomery: That station is discontinued now, yes, sir.

Mr. Snow: What was the character of the service existing over that line between Deering and Pascola?

Mr. Montgomery: The service was very poor. It has always been very poor since I have known anything of it.

Examiner Burchmore: I think you have described that adequately.

Mr. Snow: I wanted to bring out rather more clearly the point.

Mr. Montgomery: Well, there is one train scheduled a day. The time card calls for it to leave Pascola at 8:20 in the morning and arrive at Deering at 9:20. The schedule time out of Deering is 9:30 and Pascola about 10:20. There is no close passenger con-
4386 nection with that train in either direction at Pascola. People going to or coming from Deering on that train would be required to lay at Pascola several hours in each direction.

Mr. Snow: Is there any mail service?

Mr. Montgomery: There is no mail service performed by the Frisco. The Wisconsin Lumber Company have a Star Route contract in there with the government between Pascola and Deering, and that is the only mail that is delivered at Deering at this time.

Mr. Snow: What were the passenger facilities for a person who wished to go from Deering, we will say, to Caruthersville; by what route would they get across to Caruthersville or to Hornersville, state very briefly.

Mr. Montgomery: The only railroad, of course, is to use this train. The train is very irregular, and as I say, it makes no connection at Pascola by three or four hours in either direction, and it is a very long, tedious and roundabout way.

Mr. Snow: So there was no real satisfactory feasible means of getting from and to these various towns?

Mr. Montgomery: None whatever except to ride horseback or drive a team; certainly none by railroad.

4687 Mr. Snow: And when the Deering Southwestern is completed and in operation between these points, how long will it take to go from one point to the other?

Mr. Montgomery: Our first schedule will be on the basis of about

one hour, but we will reduce that to 45 minutes just as soon as the track is in proper shape, that is in the course of 60 days.

Examiner Burchmore: In connection with your testimony I understand when the Examiner got there and went over that property he arrived at Pascola on the Frisco at 6:00 o'clock and felt it was advisable to walk rather than wait for the train.

Mr. Montgomery: 90 per cent of the people do just that.

Mr. Snow: I would like to have the examiner sworn and take his testimony on that.

Mr. Montgomery: Not only that, but if I may say a word, a man getting into Deering on business, as I have just testified, if he uses that train, has just ten minutes to transact business in the town or else lose over 24 hours.

Examiner Burchmore: Is there a hotel there?

Mr. Montgomery: Yes, but I do not recommend it to you.

Mr. Snow: We filed a specific complaint in this case,
4688 and I would like to ask Mr. Montgomery whether the various tariffs to which reference is made in the case of the Deering Southwestern versus the St. Louis & San Francisco, et al., are the tariffs to which the Deering Southwestern is a party?

Mr. Montgomery: Yes.

Mr. Snow: Have these various tariffs been cancelled by supplements filed by the various railroads, parties thereto?

Mr. Montgomery: They have.

Mr. Snow: That is, there has been an attempt to cancel them?

Mr. Montgomery: Yes, the Interstate Commerce Commission have suspended the cancellation, I understand.

Mr. Snow: As stated in this complaint?

Mr. Montgomery: As stated in this complaint.

Mr. Snow: Will you state what the effect upon the Deering Southwestern will be if these cancellations go into force and effect?

Mr. Montgomery: Well, the effect on the Deering Southwestern may not be very serious because we will collect our revenue just the same, but the effect on the industries that may be located on that railway or that are now located there, will probably be right serious in that they will have to pay our tariff rate in addition to whatever rate the Frisco charges.

4689 Mr. Snow: What will be the effect upon the various industries along your line in case they are cancelled?

Mr. Montgomery: I just answered that.

Examiner Burchmore: What would be the effect if the Frisco rate was reduced by two cents from Deering and the joint rate was cancelled?

Mr. Montgomery: The effect would be, of course, that the industry shipping the lumber or timber products would be on the same rate that they are now, but the Frisco would probably reduce their rate probably from all the other territories two cents per 100 pounds from any other mills that might be located on their railroad and would therefore get the benefit of a less rate than from Deering or from any other point on the Deering Southwestern Railway.

Examiner Burchmore: Suppose the joint rate remained the same as it is now, and independent of any action by the Commission sup-

pose the Frisco System reduced your division from two cents to one cent, what effect would that have on this situation?

Mr. Montgomery: It would have rather a serious effect perhaps on the Deering Southwestern unless we wanted to continue our
4690 rate in there of two cents per 100 pounds, and our industries would have to pay one cent over the through rate.

Examiner Burchmore: You would have to charge two cents for your logs instead of one cent?

Mr. Montgomery: No, I do not think we would make any change in the logging rate; I think that service is fairly remunerative in itself and it is on about the same basis as the Frisco charges in that territory.

Examiner Burchmore: Then as I understand, you think you would raise the joint rate by one cent?

Mr. Montgomery: Yes, I think we would have to.

Examiner Burchmore: What is the character of the Frisco Road between Hayti and Caruthersville?

Mr. Montgomery: It originally was a logging road and is about that character today. Of course they run their day passenger trains over there and passenger trains from Kennett run over that branch, and they also operate a passenger train between Caruthersville and Memphis, a local train which operates over that branch; but the line does not compare in any way physically with their main line proper.

Examiner Burchmore: How about the line from Caruthersville to the south?

Mr. Montgomery: Well, that is a very good piece of rail-
4691 road in there.

Examiner Burchmore: Does your company expect to originate any outbound tonnage at Caruthersville?

Mr. Montgomery: We certainly do.

Examiner Burchmore: Well, what?

Mr. Montgomery: Well, we hope to handle outbound traffic in connection with the river there, for example, and also any local tonnage there may be there through the Cotton Belt into Texas and the southwest.

Examiner Burchmore: Do you expect to haul anything across the Cotton Belt destined to St. Louis and the north?

Mr. Montgomery: If we can persuade the Cotton Belt to put in joint freight rates and they will stand the test of the long and short haul clause, yes. We will do everything we can to get them in.

Examiner Burchmore: Do you think the Frisco, through Blazer, would put in any joint through rates over your line from Caruthersville?

Mr. Montgomery: I doubt that. I think the Frisco would figure as I would, that they would have their own rails out of Caruthersville.

Examiner Burchmore: Is it not rather generous of them to be willing to give you their terminals at Caruthersville?

4692 Mr. Montgomery: They are very glad to do that. We are paying them for them. I cannot tell you just what the basis of that payment will be, because it has not been agreed to, but at

Hornersville we have virtually agreed with the Cotton Belt on a very reasonable basis, I figure, and yet very fair basis to them. It certainly is no donation.

Examiner Burchmore: The line of the Frisco between Hayti and Caruthersville is a rather poor road?

Mr. Montgomery: A right poor road, yes.

Examiner Burchmore: Do you think they contemplate abandoning that road and running the service through Hayti and Blazer via your road?

Mr. Montgomery: I have offered Mr. Gray, the Vice President, trackage rights over our road if he wants to operate trains that way. He has not said yet what he will do.

Examiner Burchmore: That would enable them to abandon that road?

Mr. Montgomery: Yes, sir, and I do not understand there is any traffic in there to speak of that they serve on that branch, and that probably is also true to Grassy Bayou, from Caruthersville down towards Memphis, when they connect with the main line. There is a little station in there called Canedy near the main line again.

4693 Examiner Burchmore: That you said was a much better railroad?

Mr. Montgomery: No, not until you get to the main line there running south from Hayti.

Examiner Burchmore: Well, it is a possibility that the Frisco may abandon this line east of Hayti and Canedy and exercise trackage over your road.

Mr. Montgomery: I am not sure that is a possibility. We have offered them that right, but I do not know what their obligations are in that territory, whether they can abandon it or not, but I will be very glad to have them use our line if they want to, on a fair basis.

Examiner Burchmore: What was the purpose of building there from Deering to Caruthersville?

Mr. Montgomery: It was built at the request and solicitation of the Caruthersville people and at Braggadocio.

Examiner Burchmore: Well, but from your point of view, what was the incentive?

Mr. Montgomery: The incentive was that it looked like a good business proposition and of course there was an open country in there with no railroad transportation and a very rich country.

Examiner Burchmore: And it looked like a good business

4694 proposition in what way?

Mr. Montgomery: From an investment standpoint.

Examiner Burchmore: You mean that valuable traffic could be developed there?

Mr. Montgomery: I think undoubtedly so.

Examiner Burchmore: If you have come to that conclusion, it must be that you have some figures or data with respect to the amount of tonnage which would be originated on that line. How much

traffic do you expect each shipper between Caruthersville and Deering, not including those located at Caruthersville, to furnish?

Mr. Montgomery: I cannot tell you as to the tonnage. All I can tell you as to tonnage would be a mere guess, but that territory produces a magnificent crop of corn and the corn is now teamed into Caruthersville. It also produces cotton and the bulk of the cotton is teamed into Caruthersville. There is hay which is also teamed into Caruthersville. We shall use every effort to get all of that. Now the hay crop consists of alfalfa, and it is cut, so I am reliably informed, three and four times a year, and will average a ton to the acre at each cutting. Of course——

Examiner Burchmore: Do you know how much corn is hauled into Caruthersville at the present time?

4695 Mr. Montgomery: I cannot tell you, of course, but the records of the Fricoo will show. There is an immense amount of it. For instance, I was in Caruthersville Friday and Saturday of last week, and there were a great many wagon loads of corn coming in there.

Examiner Burchmore: How far in do the farmers haul the corn?

Mr. Montgomery: All the way in from Braggadocio and down the big road south of Braggadocio for miles.

Examiner Burchmore: Do you know how much cotton is taken into Caruthersville?

Mr. Montgomery: I understand Caruthersville handled about 8,000 bales of cotton this year.

Examiner Burchmore: Some figure was mentioned of 800 bales of cotton in connection with your movement.

Mr. Montgomery: Yes, I shall be disappointed if our movement is not several times 800 bales, but of course, cotton in there depends a good deal on the gins in the country. If the gins are established, as we are reliably informed that they will be, so that this cotton may be baled along the line of our railroad, of course we will haul all that cotton in there. There is a gin at this time at Braggadocio but the owner of that, so I am reliably informed, is going to

4696 at once move that gin near our station at Braggadocio and very considerably increase the size of it. That is one of several developments in there.

Examiner Burchmore: How large a proportion of the several thousand bales of cotton is teamed in from farms within that triangle enclosed within the three lines of the Frisco System of which Caruthersville, Canedy and Hayti would be the points?

Mr. Montgomery: I should say every bit of it raised in there is teamed in there.

Examiner Burchmore: Would it be 4,000, 5,000 or 8,000 bales?

Mr. Montgomery: Of course, the County of Pemiscot, as I learn, has produced about 16,000 bales of cotton; about half of it goes into Caruthersville and the other half will either get to Hayti or to Steele and stations down on the Frisco farther south there.

Examiner Burchmore: Then these very bad wagon roads that our friend the engineer testified about this afternoon, do not prevent the farmers from teaming their stuff considerable distances?

Mr. Montgomery: The bad wagon roads, of course, happen after considerable of the cotton has moved, and of course those roads are being improved all the time through there, but certain it
4697 is that with a rainfall of somewhere between 40 and 60 inches during the winter and spring months, the wagon roads cannot be particularly good.

Mr. Coleman: Do you get two cents now from the Frisco?

Mr. Montgomery: Two cents per 100 pounds, yes.

Mr. Coleman: You haul that how far?

Mr. Montgomery: Well, we will haul that to Blazar, about seven miles. The service heretofore has been somewhere in the neighborhood of half a mile, not to exceed that.

Mr. Coleman: And you have not any understanding with the Frisco that you are to get a better division at Blazar?

Mr. Montgomery: None whatever, no.

Mr. Coleman: You expect to support the additional line by its local earnings?

Mr. Montgomery: Well, you mean by local earnings, what originates on the line there, or what comes in as well? Of course there is a lot of traffic which will come in from points along that line.

Mr. Coleman: First, take up the earnings which will come from the agricultural development along the line?

Mr. Montgomery: I think that line will pay, yes, with the development in there, and the traffic that naturally will come
4698 and go and will increase, of course, as the industries are located along there.

Mr. Coleman: What do you figure it will cost to operate that line?

Mr. Montgomery: I have not figured anything very close on the cost of operation, but certainly not any more relatively than it has cost us not to operate.

Mr. Coleman: Under your old operations at two cents per half a mile and under your new operation you do not know what it will cost and what the new tonnage will be?

Mr. Montgomery: We can furnish a very fair conclusion as to what the cost will be by what our cost has been, and when it gets in proper shape to operate over, it will not probably cost as much relatively as it has been costing.

Mr. Coleman: Do you expect to get an average of two cents for each half mile?

Mr. Montgomery: I never heard of any rates being made that way and we do not expect to make ours that way.

Mr. Coleman: I know, but you were comparing the new line with the old line. On the old line you get two cents for the half mile.

Mr. Montgomery: Because that was all the haul we had then.

4699 Mr. Coleman: If you are going to compare them, do you expect to get two cents for every half mile?

Mr. Montgomery: No.

Mr. Coleman: That is not really what you are comparing, the operation of the old line?

Mr. Montgomery: I was not comparing the old operation except as to the cost of operation, that is all.

Mr. Coleman: Where is the 20 acres terminal to be?

Mr. Montgomery: Over in the city limits of Caruthersville, over towards the river.

Mr. Coleman: Is that to be devoted to railroad uses?

Mr. Montgomery: Entirely so, or whatever use the railroad desires to put it to, for switch yards, and we may locate some industries on there. I have not any in mind.

Mr. Coleman: You did not reckon you would need 20 acres of terminals for that railroad?

Mr. Montgomery: I don't know what it is going to need. Three miles across the Mississippi River is the Illinois Central, and it is not beyond the possibilities that we may have a transfer in with the Illinois Central, and you cannot tell what you will need; 20 acres is not too much of a terminal for any railroad to have of any
4700 consequence, and we expect to have one of consequence.

Mr. Coleman: You said some stuff went out f. o. b. from the mill, outbound lumber?

Mr. Montgomery: Yes.

Mr. Coleman: Is that consigned mostly to the Harvester people?

Mr. Montgomery: No. I said besides the Harvester Company.

Mr. Coleman: Does your lumber go into competition with other hardwood lumber?

Mr. Montgomery: Yes, sir, it is sold, some of it.

Mr. Coleman: And that would be sold f. o. b. the mill?

Mr. Montgomery: Yes. Of course, the Harvester Company's lumber is also shipped f. o. b. the mill, but that is not what I had in mind when I was talking then.

Mr. Coleman: Could you give an estimate of how much is outside business?

Mr. Montgomery: I cannot, but I am going to file a statement in this case showing it as near as I can.

Mr. Coleman: Under the laws of what state are you incorporated?

Mr. Montgomery: Missouri.

Mr. Coleman: How long is your charter?

4701 Mr. Montgomery: I do not know.

Mr. Coleman: No idea?

Mr. Montgomery: No, I have not any idea.

Mr. Snow: I think I have a copy of the charter here somewhere.

Mr. Coleman: Well, while he is looking it up, let me ask if you made any proposition to the Frisco as to how much you would charge them for trackage over the new line?

Mr. Montgomery: That question has not come up. The whole question of their using the track came up in the last ten days; I wrote and asked Mr. Gray if he thought it would be a good scheme, and he wrote me back asking me for a map to show what it was, and that is as far as we have got at this time.

Mr. Coleman: As to new traffic coming inbound, what would you expect to come in.

Mr. Montgomery: We expect to haul all sorts of merchandise in

there, because there are a number of stores at these points, Braggadocio and Game.

Mr. Coleman: About how much per year?

Mr. Montgomery: I do not know, but we expect to have some rates in with a boat line, and I saw a report of the merchandise in on one boat recently down there amounting to more than 100 tons. Of course, it did not all go west, but a good pro-

4702 portion of it went west.

Mr. Coleman: Have you joint rates inbound now with the Frisco?

Mr. Montgomery: No, we have not.

Mr. Coleman: Do you expect to have?

Mr. Montgomery: We do.

Mr. Coleman: Have you applied for them?

Mr. Montgomery: We have.

Mr. Coleman: And joint rates outbound also?

Mr. Montgomery: Exactly.

Mr. Coleman: On everything?

Mr. Montgomery: On everything.

Mr. Coleman: Then we are safe in concluding that your estimate of what this railroad is to earn is not based on any close study.

Mr. Montgomery: It is based on as close study as any intelligent man can make by riding over the country—I have ridden over it 20 times in the last three or four years and studied it closely, and talked to the merchants, both at Caruthersville and Braggadocio and all along there, as to the amount of business.

Mr. Coleman: What rate are you going to charge on alfalfa?

4703 Mr. Montgomery: I do not know.

Mr. Coleman: Have not given any thought to that?

Mr. Montgomery: We are going to charge the Missouri distance rate in the State of Missouri.

Mr. Coleman: Suppose it is consigned outside?

Mr. Montgomery: I do not know; we will put them in competition with other growers of hay if we can.

Mr. Coleman: Now as to the other commodities, you have not yet determined what rates you are going to charge on them?

Mr. Montgomery: The joint rates will be on the basis of, I think, five cents over Hayti, as I recollect; I am not sure about that; I have not had much to do with that feature of it. We have a General Freight Agent who does that.

Mr. Coleman: As a matter of fact you have not been able to take any given amount of tonnage and muitiply it by any given amount or rate to reach your income?

Mr. Montgomery: No.

Mr. Coleman: But you built the railroad without doing that?

Mr. Montgomery: We built the railroad because we felt very sure of the country through which we were going, and in which we will operate.

Mr. Snow: The charter is 99 years from 1903.

4704 Mr. Coleman: Do you know how deep the Mississippi River is at that point?

Mr. Montgomery: It varies according to the time of year and how much water there is there, I do not know, no, but there is always water there, navigable water.

Mr. Coleman: Sometimes it is pretty deep, is it not?

Mr. Montgomery: Yes, sir, sometimes it is pretty deep.

Mr. Coleman: Is it swift current?

Mr. Montgomery: Quite a current, but there are steamboats going up and down and towboats with coal all the time.

Mr. Coleman: In your idea of connecting up with the Illinois Central did you mean by ferry or bridge?

Mr. Montgomery: By ferry, of course.

Mr. Snow: I would like to state right in that connection that according to this ordinance from the City of Caruthersville we have the dockage rights from the city for the maintenance of a wharf.

Mr. Coleman: You also mentioned you might possibly let that go to an industrial concern.

Mr. Montgomery: Let what go?

Mr. Coleman: Some of that 20 acres.

Mr. Montgomery: If we do not have need for it and some
4705 concern wants to locate there and do business with us, we will be very glad to locate them.

Mr. Coleman: Under your charter to build the railroad, do you not understand that if you maintain your road for only ten years and then take it up, you would have to give up your right of way anyway?

Mr. Montgomery: I had not thought of that point, because I have no idea it will ever be taken up.

Mr. Coleman: Who thought of the ten year agreement with the citizens?

Mr. Montgomery: The citizens of Caruthersville.

Mr. Coleman: And who thought of it on behalf of your railroad?

Mr. Montgomery: I thought of it, and Mr. Snow thought of it; we were both in conference with the citizens of Caruthersville, but it was presented by them, wanting to know if we would enter into a contract covering that period, and we said we would after other matters were made satisfactory.

Mr. Coleman: As a matter of fact you do not consider that ten year assurance amounts to anything?

Mr. Montgomery: It amounts to the fact we will operate a railroad there for ten years. What happens beyond that I do not know, of course.

4706 Mr. Coleman: But you do not consider it required that agreement to make you give up your right of way?

Mr. Montgomery: No.

Mr. Snow: That was put in to satisfy the Caruthersville and Hornersville people. It was not suggested by us, but they wanted some positive assurance.

Mr. Coleman: Do you consider, Mr. Montgomery, that the two cents division you got from the Frisco was reasonable for the service?

Mr. Montgomery: Yes, for the service we performed, I think it was.

Mr. Coleman: You did not furnish any cars?

Mr. Montgomery: No, we did not furnish any cars.

Mr. Coleman: Your railroad was not what would be called a very expensive railroad?

Mr. Montgomery: No, about the same class as any other railroad in that territory.

Mr. Coleman: You are a member of the general—what do you call it, the Illinois Shippers' Association?

Mr. Montgomery: The Illinois Manufacturers' Association?

Mr. Coleman: The Illinois Manufacturers' Association, yes.

Mr. Montgomery: The Deering Southwestern Railway?

Mr. Coleman: No, no, but you yourself.

4707 Mr. Montgomery: The International Harvester Company is.

Mr. Coleman: And I believe you took a prominent part and manifested considerable interest in the recent rate advance case.

Mr. Montgomery: I was interested in that case, yes.

Mr. Coleman: Did you testify?

Mr. Montgomery: I did not.

Mr. Coleman: Should we understand that you consider two cents for half a mile reasonable for all lines?

Mr. Montgomery: You can understand that for the service performed by the Deering Southwestern Railway at that point two cents per 100 pounds is not unreasonable according to my judgment.

Mr. Coleman: Will you tell me in what respect the service you render is superior to that rendered by the trunk lines whose rates you are contesting?

Mr. Montgomery: I do not know of any service performed by many trunk lines under circumstances of that sort or to the extent that we performed that they get less than two cents per 100 pounds except probably switching around some local community, and that is generally on a reciprocal basis between railroads.

Examiner Burchmore: It does not seem to me this is very

4708 profitable on this question anyhow.

Mr. Coleman: I just wanted to see. It seemed to me there was considerable change of opinion, that is all. I do not think I need to go any further.

Mr. Montgomery: I do not think you had better bother about my opinion on the rate case, if that is what you are leading up to.

Mr. Coleman: The only thing was, I understood your company was very much interested—that they thought that the rate advance was unreasonable, and here in another situation you think two cents per 100 pounds for half a mile is very reasonable.

Examiner Burchmore: Is there any two cent rate involved in the advanced rate cases?

Mr. Coleman: There is no advance of two cents per 100 pounds.

Mr. Montgomery: Might I make a statement? I do not want Mr. Coleman to misunderstand it. The International Harvester Company took this position in the rate case, that under the present Commerce Act the Interstate Commerce Commission may on complaint, or may on their own initiative investigate and pass upon the

reasonableness or the justness of any advance or rate made by any common carrier after January 1st, 1910. The Harvester
4709 Company's position was that they wanted the facts presented to the Interstate Commerce Commission. If that Commission say the railroads are entitled to additional revenue through a blanket rate advance, the International Harvester Company will not complain. Now I acted individually in that case as Chairman of the Transportation Committee of the Illinois Manufacturers' Association and also as the Chairman of the Shippers' Committee in that rate case, representing all the shippers in the United States that were parties to the meeting of May 17th, 1910, and over 400 of them were there representing most of the communities, shippers' associations and individual shippers in the United States. I just wanted to mention that so you would be clear. The International Harvester Company has not said whether the railroads are entitled to an advance in rates or not.

Mr. Coleman: No, I just wanted your personal opinion.

Mr. Montgomery: Well, my personal opinion might not appear well in print.

Examiner Burchmore: I have one more line of questions. This blue print apparently shows the projection of your line from Hornersville south on the west bank of the Little River Swamp?

Mr. Montgomery: Yes.

4710 Examiner Burchmore: Do I understand that is going to Blytheville?

Mr. Montomery: That is going nowhere; it was extended to the State Line. There are several opportunities south of the State line to connect with other railroads, and while we were making an amendment to the charter we amended it to the State Line. There was no definite destination in mind.

Examiner Burchmore: Are there any lands or woods owned by the Wisconsin Lumber Company down in that direction?

Mr. Montgomery: They own to the State Line as I understand.

Examiner Burchmore: Yes, but this line——

Mr. Montgomery: I cannot state positively, but I think on that side of the Little River also that line is planned there, but I am not positive about it.

Mr. Snow: There is nothing over the line.

Examiner Burchmore: The Frisco seems to have received some pretty hard knocks this evening. Mr. Wood, do you care to ask any questions?

Mr. Wood: No questions.

(Witness excused.)

Whereupon, at 10.15 P. M., an adjournment was taken to January 25th, 1911, at 9:30 A. M.

4711 ST. LOUIS, MO., *January* 25, 1911.

Met pursuant to adjournment at 9:30 A. M.

Present:

Parties as before.

Homan & Southeastern Railroad.

C. B. KELLY, was called as a witness, and having been duly sworn, testified as follows:

Examiner Burchmore: What is your connection with the Homan & Southeastern?

Mr. Kelly: President.

Examiner Burchmore: Are you connected with any lumber company, and if so, what one?

Mr. Kelly: I am connected with the Homan Lumber Company.

Examiner Burchmore: In what capacity?

Mr. Kelly: President.

Examiner Burchmore: Are you a stockholder in both companies?

Mr. Kelly: Yes, sir.

Examiner Burchmore: Are the other officers of the two companies identical, or substantially so?

4712 Mr. Kelly: Well, part of them; Mr. J. A. Browne, Vice President of the Homan & Southeastern, has no connection with the Homan Lumber Company; H. E. Townsend has no connection with the Homan Lumber Company.

Examiner Burchmore: What is Mr. Townsend's position?

Mr. Kelly: He is simply a director in the Homan & Southeastern.

Examiner Burchmore: How many shares does he hold?

Mr. Kelly: One share.

Examiner Burchmore: Are there any other officers in the railroad company who are not also connected with the lumber company?

Mr. Kelly: No, sir.

Examiner Burchmore: By whom is this railroad owned?

Mr. Kelly: The majority of the stock is owned by J. A. Browne, of North Manchester, Ind.

Examiner Burchmore: How long has Mr. Browne owned the stock?

Mr. Kelly: Since September, 1909.

Examiner Burchmore: Do you know from whom he acquired it?

Mr. Kelly: Yes, sir; from the Homan Lumber Company.

Examiner Burchmore: Does Mr. Browne own any stock in the Homan Lumber Company?

4713 Mr. Kelly: No, sir.

Examiner Burchmore: What is his relation to the Homan Lumber Company?

Mr. Kelly: None whatever.

Examiner Burchmore: How did he happen to buy this stock?

Mr. Kelly: The Homan Lumber Company sold their holdings of

stock in the Homan & Southeastern, and also sold their plant to J. A. Browne in September, 1909.

Examiner Burchmore: They sold their lumber plant to Mr. Browne?

Mr. Kelly: Yes, sir.

Examiner Burchmore: Does he now own that lumber plant?

Mr. Kelly: Yes, sir; the Homan Lumber Company operated it, however, for a year and three months under a lease, operated the lumber plant, I mean.

Examiner Burchmore: What is the extent of your stock ownership in this railroad?

Mr. Kelly: One share.

Examiner Burchmore: Is there any other person who owns more than one share excepting Mr. Browne?

Mr. Kelly: No, sir.

Examiner Burchmore: The mill and lumber plant are now in operation?

4714 Mr. Kelly: Not at the present time; the mill was destroyed by fire on the 20th of December, and is being rebuilt.

Examiner Burchmore: By whom is it being rebuilt?

Mr. Kelly: J. A. Browne & Company.

Examiner Burchmore: Who is interested in J. A. Browne & Company aside from Mr. Browne?

Mr. Kelly: Henry Mills, H. E. Townsend, and one or two small stockholders.

Examiner Burchmore: Have those gentlemen any interest in this railroad?

Mr. Kelly: Only a nominal one, I think; I am not informed as to their holdings, but my impression is that J. A. Browne holds the majority of stock.

Examiner Burchmore: The mill was destroyed by fire in September, 1909?

Mr. Kelly: No, sir, in December, 1910.

Examiner Burchmore: Who was operating it at the time it was destroyed?

Mr. Kelly: The Homan Lumber Company.

Examiner Burchmore: Under lease?

Mr. Kelly: Yes, sir.

Examiner Burchmore: Are you able to acquaint us with

4715 the terms of that lease?

Mr. Kelly: Yes, sir. Here was the situation: When Browne bought this plant the Homan Lumber Company had about cut out what timber they had; they had enough to run about a few months, and Mr. Browne was not quite ready to commence his operations, and we fixed up a deal by which we leased the plant for a year and got some additional timber, enough to run on for that time, until such time as he was in a position to take the lumber plant over and operate it himself.

Examiner Burchmore: Then I take it Mr. Browne has some timber holdings down in that locality?

Mr. Kelly: Yes.

Examiner Burchmore: Along the line of the Homan & Southeastern Railway?

Mr. Kelly: Yes, sir.

Examiner Burchmore: What is the extent of his holdings?

Mr. Kelly: I don't know the extent, but I think he has about four to five years' run.

Examiner Burchmore: From whom did he acquire that timber?

Mr. Kelly: Well, he has owned it for about four years; from whom he acquired it I do not know.

Examiner Burchmore: Not from the Homan Lumber Company?

4716 Mr. Kelly: No.

Examiner Burchmore: And not from any persons interested in that company so far as you know?

Mr. Kelly: No.

Examiner Burchmore: From whom did the Homan Lumber Company acquire its timber?

Mr. Kelly: They bought it from a receiver, at a receiver's sale.

Examiner Burchmore: Who was this receiver?

Mr. Kelly: He was receiver for a lumber company that failed in 1906.

Examiner Burchmore: Do you recall the name of that company?

Mr. Kelly: C. B. Kelley Lumber Company.

Examiner Burchmore: You were interested in that company?

Mr. Kelly: Yes, sir.

Examiner Burchmore: Is the Homan Lumber Company virtually a reorganized corporation that took over the Kelly Lumber Company?

Mr. Kelly: No, it is not a reorganized company; they simply bought the property from the receivers.

Examiner Burchmore: Well, what I mean is the persons who are now interested in the Homan Lumber Company were for-

4717 merly interested in the Kelley Lumber Company?

Mr. Kelly: Yes, sir.

Examiner Burchmore: Although it is entirely a new venture?

Mr. Kelly: Yes, sir.

Examiner Burchmore: How long have you been interested in lumbering and the mill business in the vicinity of Homan?

Mr. Kelly: Six and a half years.

Examiner Burchmore: When did the Kelley Lumber Company go out of business?

Mr. Kelly: In 1904.

Examiner Burchmore: Had they previously been in business elsewhere?

Mr. Kelly: Yes, sir.

Examiner Burchmore: Where?

Mr. Kelly: Newport, Arkansas.

Examiner Burchmore: And you abandoned that plant?

Mr. Kelly: Yes, sir.

Examiner Burchmore: And moved to Homan, Arkansas?

Mr. Kelly: Yes.

Examiner Burchmore: Was there any mill at Homan when you went in business there?

Mr. Kelly: None.

4718 Examiner Burchmore: You started up a new operation?

Mr. Kelly: Yes, sir.

Examiner Burchmore: Was there any railroad there, I mean any Homan & Southeastern Railroad?

Mr. Kelly: No.

Examiner Burchmore: Any logging tracks?

Mr. Kelly: No.

Examiner Burchmore: Then you built a mill in 1904 at or near Homan?

Mr. Kelly: Yes, sir.

Examiner Burchmore: At the same time did you build any railroad, either private or public?

Mr. Kelly: Yes, sir.

Examiner Burchmore: Please describe the railroad as then built.

Mr. Kelly: We built about six miles.

Examiner Burchmore: Was that a standard gauge?

Mr. Kelly: Yes, sir.

Examiner Burchmore: Was it incorporated as a railroad?

Mr. Kelly: Not at the time.

Examiner Burchmore: Built as a private logging road?

Mr. Kelly: Yes, sir.

4719 Examiner Burchmore: For about six miles?

Mr. Kelly: Yes.

Examiner Burchmore: When was the Homan & Southeastern Railway incorporated?

Mr. Kelly: In 1906.

Examiner Burchmore: What was the extent of the line on the date of the incorporation?

Mr. Kelly: About six miles, possibly seven.

Examiner Burchmore: Is that line now in existence as a whole?

Mr. Kelly: No, we changed the line and rebuilt it.

Examiner Burchmore: After the incorporation and purchase of the road you changed the road and rebuilt it?

Mr. Kelly: Yes, sir.

Examiner Burchmore: Have you made more than one change in the line?

Mr. Kelly: No, sir.

Examiner Burchmore: What was the purpose of incorporating this railway?

Mr. Kelly: It was for the purpose of getting a division.

Examiner Burchmore: Had the Homan Lumber Company been receiving any divisions or allowances, either under the tariff

4720 or otherwise, in connection with the movement of its lumber?

Mr. Kelly: Before incorporation?

Examiner Burchmore: Before incorporation.

Mr. Kelly: No, sir.

Examiner Burchmore: Then previous to the incorporation it had not in any way held itself out as a common carrier?

Mr. Kelly: No, sir.

Examiner Burchmore: By whose advice or counsel did you incorporate this railroad?

Mr. Kelly: I did it on my own advice.

Examiner Burchmore: Well, what suggested the idea to your mind, if any suggestion came to you?

Mr. Kelly: Well, I might explain that there was another road incorporated before the Homan & Southeastern, that was operated by the Kelly Lumber Company; I do not mean it was operated by them, but it was owned by them and that was called the Homan & Southern; but after this reorganization, we reincorporated and rebuilt the road and that is the situation.

Examiner Burchmore: Did the Homan & Southern ever get any divisions?

Mr. Kelly: Yes, sir.

Examiner Burchmore: When was the Homan & Southern
4721 incorporated?

Mr. Kelly: I think in 1904 or 1905.

Examiner Burchmore: About the same time the lumber company commenced operations?

Mr. Kelly: Yes, sir, about the same time.

Examiner Burchmore: Was the Homan & Southern incorporated after the logging road was built, or did it itself construct that road?

Mr. Kelly: A short time after it was built it was incorporated.

Examiner Burchmore: And it took over the tracks previously built by the lumber company?

Mr. Kelly: Yes, sir.

Examiner Burchmore: And paid for them in cash or in some other form?

Mr. Kelly: Yes, sir.

Examiner Burchmore: How did the Homan & Southeastern Railroad acquire this road?

Mr. Kelly: The property was sold by the receiver as a whole, and the Homan & Southeastern when they incorporated, incorporated for such a sum—they divided the property. The Homan & Southeastern Railway was incorporated for $27,000 and the lumber company for $50,000.

4722 Examiner Burchmore: How was the stock issued?

Mr. Kelly: The stock was issued to H. G. McBurney as Trustee, the majority of it.

Examiner Burchmore: As Trustee for whom?

Mr. Kelly: For the Homan Lumber Company.

Examiner Burchmore: And Mr. McBurney re-issued it to others?

Mr. Kelly: When the sale to Browne was made the stock was reissued to J. A. Browne.

Examiner Burchmore: Then the stock or the majority of the stock was held in the name of Mr. McBurnee as Trustee until it was passed over to Mr. Browne?

Mr. Kelly: Yes, sir.

Examiner Burchmore: And that was in 1909?

Mr. Kelly: 1909, yes, sir.

Examiner Burchmore: The capitalization of this railroad is $50,000?

Mr. Kelly: No, sir, $27,000.

Examiner Burchmore: I thought I understood $50,000 a moment ago?

Mr. Kelly: The lumber company.

Examiner Burchmore: And the railroad is incorporated for $27,000?

4723 Mr. Kelly: Yes, sir.

Examiner Burchmore: That is the total of the authorized stock?

Mr. Kelly: Yes, sir.

Examiner Burchmore: And it is all issued?

Mr. Kelly: Yes, sir.

Examiner Burchmore: Are there any other saw mills on your line?

Mr. Kelly: No, sir.

Examiner Burchmore: How many mills has the Homan Lumber Company at that point?

Mr. Kelly: They have not any now.

Examiner Burchmore: Well, I mean how many mills do you operate—you are rebuilding one mill?

Mr. Kelly: Browne & Company are rebuilding the mill, and the Homan Lumber Company at the present time is building a mill, but not at Homan.

Examiner Burchmore: Where is that mill?

Mr. Kelly: On the Red River, one mile from the Iron Mountain Railroad.

Examiner Burchmore: How far is that from this locality?

Mr. Kelly: Three and a half miles from Homan.

Examiner Burchmore: Is it near the Homan & Southeastern?

4724 Mr. Kelly: Yes, sir.

Examiner Burchmore: Do you expect to be served by the Homan & Southeastern?

Mr. Kelly: That arrangement has not yet been made; I do not know whether it will be made or not, and I do not think it will.

Examiner Burchmore: How near are you to the rails of the Homan & Southeastern?

Mr. Kelly: Three and a half miles.

Examiner Burchmore: Then it would be necessary to extend this railroad to reach your new mill?

Mr. Kelly: I expect so; not necessarily, however.

Examiner Burchmore: I say, in order to reach your new mill the rails would have to be extended?

Mr. Kelly: Yes, sir.

Examiner Burchmore: How near are you to the Iron Mountain?

Mr. Kelly: One mile.

Examiner Burchmore: Are you building a road across from your mill to the Iron Mountain?

Mr. Kelly: Yes, sir.

Examiner Burchmore: Is your road incorporated?

Mr. Kelly: No.

Examiner Burchmore: What is the character of that road?

4725 Mr. Kelly: It is for the purposes of hauling the lumber from the new mill to the railroad?

Examiner Burchmore: Do you expect to incorporate it?

Mr. Kelly: I have not thought of it, and do not think I shall.

Examiner Burchmore: If you do not incorporate I don't presume you will receive any division?

Mr. Kelly: No.

Examiner Burchmore: Can you afford to operate that road and haul your lumber for one mile from the mill to the railroad and bear the entire cost of that operation yourself and sell your lumber in competition with Mr. Browne, for example, who does not bear such cost?

Mr. Kelly: I think I can.

Examiner Burchmore: How do you figure that out?

Mr. Kelly: Well, it is a much smaller mill, about half the capacity of the other mill, and the reduced expenses of operating and all that sort of thing, I think, will enable me to manufacture the lumber as cheaply as I could before.

Examiner Burchmore: It is the fact, then, that the mill is smaller and can be operated more economically which enables you to compete?

Mr. Kelly: Yes, sir.

4726 Examiner Burchmore: But you could not put a large mill at that point and compete to advantage?

Mr. Kelly: I could not.

Examiner Burchmore: Are there any farms along the line of the Homan & Southeastern?

Mr. Kelly: Yes, sir.

Examiner Burchmore: How many farmers?

Mr. Kelly: I don't know; there are a good many; some large farms are being cleared up at the present time. A large amount of land has changed hands in the past few months and they have commenced to clear up and open up quite a large farming territory.

Examiner Burchmore: What is the present mileage of this railroad?

Mr. Kelly: 12 miles.

Examiner Burchmore: When it took over the road in 1906, I understood there were six or eight miles?

Mr. Kelly: About six or eight, somewhere along there.

Examiner Burchmore: Then you have constructed four or five since?

Mr. Kelly: Yes, sir.

Examiner Burchmore: How were those extensions paid for?

4727 Mr. Kelly: Paid for by the company, the railroad company.

Examiner Burchmore: Where did they get the money?

Mr. Kelly: Some of it was loaned to the company by the Homan Lumber Company, and the balance was paid out of earnings.

Examiner Burchmore: Is the road ballasted?
Mr. Kelly: No.
Examiner Burchmore: Do you have any trackage rights over the Iron Mountain?
Mr. Kelly: No, sir.
Examiner Burchmore: Any bridges?
Mr. Kelly: Yes, sir.
Examiner Burchmore: What is the character of those bridges?
Mr. Kelly: Wooden.
Examiner Burchmore: Substantially built?
Mr. Kelly: Yes, sir.
Examiner Burchmore: How heavy a load would they stand up under?
Mr. Kelly: Well, we take loaded standard cars out there when necessary.
Examiner Burchmore: Do you have to run them very slowly over those bridges?
Mr. Kelly: Yes, sir, we run slowly.
4728 Examiner Burchmore: Have you any station buildings?
Mr. Kelly: No, sir.
Examiner Burchmore: Any track scales?
Mr. Kelly: No, sir.
Examiner Burchmore: Any special facilities along the line for handling traffic?
Mr. Kelly: Only a platform and storehouse for cottonseed.
Examiner Burchmore: Where is that storehouse?
Mr. Kelly: A little place called Hervey, about eight miles.
Examiner Burchmore: Where is the loading platform?
Mr. Kelly: Right along the road.
Examiner Burchmore: They are at Hervey?
Mr. Kelly: Yes, sir.
Examiner Burchmore: That is also intended for cotton?
Mr. Kelly: Yes, sir.
Examiner Burchmore: What is the capacity of that warehouse?
Mr. Kelly: Two or three carloads.
Examiner Burchmore: Did you ever have it full?
Mr. Kelly: Yes, sir.
Examiner Burchmore: I have not asked you what railroads you connect with. I understand the Homan & Southeastern connects with the Iron Mountain at Homan, Arkansas?
4729 Mr. Kelly: Yes, sir.
Examiner Burchmore: Does it connect with any other railroad?
Mr. Kelly: No, sir.
Examiner Burchmore: What is the distance from the mill at Homan with the Iron Mountain rails?
Mr. Kelly: About 1000 feet, 1500 possibly.
Examiner Burchmore: Possibly less than 1000?
Mr. Kelly: Well, I—yes.
Examiner Burchmore: Where is the station known as Arthur?

Mr. Kelly: It is what — supposed to be the terminus of the Homan & Southeastern.

Examiner Burchmore: Where is Arthur, away out in the woods?

Mr. Kelly: No, it is at the mill.

Examiner Burchmore: The mill then is known as Arthur?

Mr. Kelly: Yes, sir.

Examiner Burchmore: You mentioned Hervey. Is there any other station on your line?

Mr. Kelly: There is one, what we call a station or shipping point at Dooley Ferry Road.

Examiner Burchmore: Where is that?

Mr. Kelly: That is about eight miles, I think.

Examiner Burchmore: What is the name by which the end of the railroad is designated?

4730 Mr. Kelly: There is no name; it ends in the woods.

Examiner Burchmore: Those tracks out in the woods are moved to and fro?

Mr. Kelly: No, sir. Well, I wish to say that they have been, but from now on they will not be, except spurs will be run out at times: at least I think that is the intention of Mr. Browne.

Examiner Burchmore: Are there any logging spurs out there at the present time?

Mr. Kelly: One.

Examiner Burchmore: Are those owned by this railroad?

Mr. Kelly: Yes.

Examiner Burchmore: Operated by this railroad?

Mr. Kelly: Yes.

Examiner Burchmore: Are you cutting timber and logs at the present time?

Mr. Kelly: Browne & Company have up to a very short time ago up to the time the mill was destroyed by fire they were logging, but they ceased logging operations then.

Examiner Burchmore: They were logging when you were operating the mill?

Mr. Kelly: Yes, sir—well, the Homan Lumber Company had been running on its own logs, and Browne & Company,

4731 expecting to take the plant over the 1st of January, had commenced logging operations, but had not hauled any logs to the mill.

Examiner Burchmore: When do you now expect to relinquish the operation of this mill?

Mr. Kelly: The Homan——

Examiner Burchmore: The Homan Lumber Company, when do they expect to give up this mill?

Mr. Kelly: They have already given it up.

Examiner Burchmore: Then you have no connection with the milling on that line?

Mr. Kelly: No, not a bit.

Examiner Burchmore: What is your relation to Mr. Browne?

Mr. Kelly: None whatever.

Examiner Burchmore: Are you employed in any capacity by the Browne Lumber Company?

Mr. Kelly: No, sir. I wish to say that sooner or later Mr. Browne or some of his connections will be in the management of this little road. That change has not been made, for no particular reason, except that Mr. Browne has not been down there, and has not instructed us as yet as to who he wishes elected President or Secretary-Treasurer.

Examiner Burchmore: Do you receive a salary from the Homan & Southeastern Railroad?

4732 Mr. Kelly: No, sir.

Examiner Burchmore: Have you a very vital interest in its welfare?

Mr. Kelly: Except to see it succeed.

Examiner Burchmore: How many locomotives are there on this railroad?

Mr. Kelly: Two.

Examiner Burchmore: Both operated?

Mr. Kelly: Yes, sir, at times.

Examiner Burchmore: How many train crews do they maintain?

Mr. Kelly: Two at times.

Examiner Burchmore: And at other times——

Mr. Kelly: When necessary.

Examiner Burchmore: What did the Homan & Southeastern do with the other locomotive that they had?

Mr. Kelly: They sold it.

Examiner Burchmore: To whom was it sold?

Mr. Kelly: It was sold to a company at Houston in which Mr. West is interested, some iron company. I really don't know the company now.

Examiner Burchmore: Was it sold for scrap?

Mr. Kelly: Well, it was not much account, and they bought it for light work.

4733 Examiner Burchmore: How many cars have you?

Mr. Kelly: We have 15 logging cars and two flat cars.

Examiner Burchmore: Those cars remain on your line at all times?

Mr. Kelly: Yes, sir.

Examiner Burchmore: Are they equipped with safety appliances?

Mr. Kelly: No.

Examiner Burchmore: The locomotives have automatic couplers?

Mr. Kelly: Yes, sir, I think they do; I am not positive, however.

Examiner Burchmore: Do you have any hand cars or motor cars?

Mr. Kelly: We have hand cars, but no motor cars.

Examiner Burchmore: Those are used by the track men?

Mr. Kelly: Yes, sir.

Examiner Burchmore: How many section gangs have you?

Mr. Kelly: During 1910 I think we had two going most of the time, on account of changing the tracks, and——

Examiner Burchmore: Changing the tracks in the woods?

Mr. Kelly: Changing the spurs and keeping the main line up.

Examiner Burchmore: I understand all the tracks in this vicinity that connect with the main line of the Homan & South-
4734 eastern are incorporated into this system as part of the railroad?

Mr. Kelly: Yes, sir.

Examiner Burchmore: Is your property in that regard different from that of other tap lines or other short roads in this part of the country?

Mr. Kelly: I do not think it is.

Examiner Burchmore: Have you been listening to the testimony in this case?

Mr. Kelly: Some of it.

Examiner Burchmore: You have heard a number of short line roads, that did not own the logging spurs up in the woods because it was not deemed advisable to own and operate tracks of a transitory character.

Mr. Kelly: I heard some of that talk

Examiner Burchmore: You have not found any difficulty in that regard?

Mr. Kelly: No, sir, because our spurs are little short affairs and are only temporary, and we considered it part of the necessary work that the railroad had to do.

Examiner Burchmore: How many trains do you run a day?

Mr. Kelly: It depends entirely on the work of the mill.

4735 Examiner Burchmore: You run an irregular service then?

Mr. Kelly: No, not entirely irregular; a logging train always goes out in the early morning and returns in the early evening.

Examiner Burchmore: Then you ran one train a day round trip when the mill was in operation?

Mr. Kelly: Yes, sir, and some days two.

Examiner Burchmore: Did that train run at regular hours of the day?

Mr. Kelly: We intended to have it do so, to have it run on regular hours.

Examiner Burchmore: Did you have any time table?

Mr. Kelly: No.

Examiner Burchmore: People along the line knew when the train was expected?

Mr. Kelly: No.

Examiner Burchmore: Did you carry any passengers?

Mr. Kelly: No—we carried them, yes, sir.

Examiner Burchmore: Free?

Mr. Kelly: Free.

Examiner Burchmore: Where did they ride?

Mr. Kelly: Well, some times on the logging cars and some times on the engine.

4736 Examiner Burchmore: Did you require them to execute any formal release from liability for injuries?

Mr. Kelly: No.

Examiner Burchmore: Were any of them ever hurt while riding on your train?

Mr. Kelly: No.

Examiner Burchmore: Suppose there is a farmer up there at this cotton loading platform who telephoned down to the general office of the railroad that he had a carload of cotton he wanted to move right away, would you send a train up there and get it?

Mr. Kelly: No, sir.

Examiner Burchmore: Maintain a special service where shipments were necessary?

Mr. Kelly: Yes, sir.

Examiner Burchmore: Would you regard the movement of a carload of cotton as quite an event?

Mr. Kelly: Well, rather.

Examiner Burchmore: You do not handle mail?

Mr. Kelly: No.

Examiner Burchmore: Do you publish any tariffs yourselves?

Mr. Kelly: Yes, sir.

4737 Examiner Burchmore: Where are they filed?

Mr. Kelly: We publish the state court tariff.

Examiner Burchmore: But you do not file any tariff with the Interstate Commerce Commission?

Mr. Kelly: Only a joint tariff with the Missouri Pacific.

Examiner Burchmore: Well, you are a party to tariffs of other carriers?

Mr. Kelly: Yes, sir.

Examiner Burchmore: Do you have any joint rates with the Iron Mountain on cotton and cottonseed.

Mr. Kelly: No.

Examiner Burchmore: Do you have them on class rates?

Mr. Kelly: No.

Examiner Burchmore: You have joint rates on lumber?

Mr. Kelly: On lumber only.

Examiner Burchmore: Suppose these farmers on your line ship cottonseed, where do they ship it to?

Mr. Kelly: The cottonseed that has been shipped from Hervey has gone to Hope, a local point about 20 miles north of Arthur or Homan.

Examiner Burchmore: That is a purely state movement?

Mr. Kelly: Yes, sir.

4738 Examiner Burchmore: You have not been shipping any cotton interstate?

Mr. Kelly: No.

Examiner Burchmore: Is that handled on through billing over the Iron Mountain?

Mr. Kelly: Yes, sir.

Examiner Burchmore: You mean you issue a through waybill?

Mr. Kelly: Yes, sir.

Examiner Burchmore: As well as a through bill of lading?

Mr. Kelly: Yes, sir.

Examiner Burchmore: What are your earnings on that cotton?

Mr. Kelly: It is either five or six cents.

Examiner Burchmore: Who furnishes the car?

Mr. Kelly: The Iron Mountain.

Examiner Burchmore: You have joint rates on lumber with the Iron Mountain. Do those rates apply to practically all interstate territories?

Mr. Kelly: Yes, sir.

Examiner Burchmore: Are the rates from Arthur, which I understand is your mill and milling point, the same as the rate from Homan on the Iron Mountain?

Mr. Kelly: No, sir.

4739 Examiner Burchmore: What is the difference?

Mr. Kelly: One cent per 100 pounds.

Examiner Burchmore: One cent higher?

Mr. Kelly: Yes, sir.

Examiner Burchmore: What is your division out of those rates?

Mr. Kelly: Five cents.

Examiner Burchmore: Five cents on all traffic?

Mr. Kelly: It is five cents on lumber to St. Louis and East St. Louis, and four cents to Kansas City and points beyond.

Examiner Burchmore: Where does most of your lumber move to?

Mr. Kelly: Very largely to east of St. Louis at the present time; it changes from time to time.

Examiner Burchmore: You say your divisions are four and five cents. Do you mean four cents plus the one cent arbitrary?

Mr. Kelly: Our division is five cents, but there is one cent arbitrary, so that really the Iron Mountain pays four cents and the lumber company pays one.

Examiner Burchmore: So in the case of a four cent division it is three cents?

Mr. Kelly: Yes, sir.

4740 Examiner Burchmore: Your mill I understood you to say was about 1000 feet from the Iron Mountain, and by that I refer to the mill which your company formerly operated?

Mr. Kelly: Yes, sir.

Examiner Burchmore: How far is the loading track at that mill from the Iron Mountain?

Mr. Kelly: It commences within a very short distance from the Iron Mountain and extends down to the mill and beyond the mill.

Examiner Burchmore: Who places the empty cars at the mill for loading?

Mr. Kelly: The Homan & Southeastern.

Examiner Burchmore: Who hauls the loaded cars away?

Mr. Kelly: The Homan & Southeastern.

Examiner Burchmore: And places them on some interchange track where they are taken by the Iron Mountain?

Mr. Kelly: Yes, sir.

Examiner Burchmore: The shipments are billed as originating at Arthur?

Mr. Kelly: Yes, sir.

Examiner Burchmore: Just where is Arthur with reference to the mill and the Iron Mountain?

Mr. Kelly: We figure that Arthur is at the mill.

4741 Examiner Burchmore: Has Arthur ever been anywhere else?

Mr. Kelly: No, sir.

Examiner Burchmore: Are your rates on a milling in transit basis, or have you no milling in transit privilege?

Mr. Kelly: Well, we consider them so.

Examiner Burchmore: What did the Homan & Southeastern charge for hauling the logs out to the mill?

Mr. Kelly: They made no charge direct to the lumber company but the one cent which the lumber company has to stand on the lumber shipments was the compensation which the railroad company got for hauling the stuff.

Examiner Burchmore: Then the division or part of the division was supposed to cover the logs into the mill?

Mr. Kelly: Yes, sir.

Examiner Burchmore: I am curious to know about this station Arthur: What is there there by which I would know I had arrived at a station?

Mr. Kelly: I would like to explain. The station had previously been called Homan, and we expected to call it Arthur when we made this change, and the buildings which the lumber company erected were to be on the south side of the track where the mill is.

4742 But after we started in we concluded it would be better to separate the colored houses from the white, that is have them on different sides of the track, and so we built most of the houses on the north of the railroad tracks, and have continued to call the place Homan; and we had started out to call it Arthur, and we continued to do so; in fact it was suggested to us it would be better for us to continue to call the shipping point Arthur.

Examiner Burchmore: Suppose a man was walking down the tracks, how would he know when he came to Arthur?

Mr. Kelly: It would be a pretty hard guess.

Examiner Burchmore: Well, I might say that the report of an examiner of the Commission who went over the property in July, 1909, would seem to indicate that he walked down the whole length of the line, and when he got to the far end of it he thought he was to Arthur, for he says, Arthur is ten miles from the mill.

Mr. Kelly: Well, he was misinformed.

Examiner Burchmore: He seems to have been informed on most of the points covered by his report by Mr. H. G. McBurney. As a matter of fact was there not formerly out there in the woods a station designated as Arthur.

Mr. Kelly: I never considered that there was.

4743 Examiner Burchmore: If anyone went down there to verify that fact they could not tell by walking down the railroad where Arthur was?

Mr. Kelly: He could not.

Examiner Burchmore: Then the question is whether it is really

important to know where Arthur is on the road, if you cannot find it.

Mr. Kelly: I do not consider it is important.

Examiner Burchmore: You do not know whether your rates are on the milling in transit basis so far as the tariffs themselves read?

Mr. Kelly: No.

Examiner Burchmore: Have you an agent at Arthur who issues bills of lading?

Mr. Kelly: Yes, sir.

Examiner Burchmore: Who is that person?

Mr. Kelly: R. L. Phillips.

Examiner Burchmore: Does he devote his entire time to the service of the railroad?

Mr. Kelly: No.

Examiner Burchmore: He is employed also by the lumber company?

Mr. Kelly: Yes, sir.

Examiner Burchmore: He issues bills of lading that cover
4744 shipments of lumber to interstate destination?

Mr. Kelly: Yes, sir.

Examiner Burchmore: Does he also issue joint waybills?

Mr. Kelly: Yes, sir.

Examiner Burchmore: How do you settle the freight charges with the Iron Mountain?

Mr. Kelly: They furnish us with a list of shipments each month with the weights and divisions.

Examiner Burchmore: They furnish you a statement of the waybills?

Mr. Kelly: Yes, a statement of the waybills and the correct weights showing the amount of our division and the amount of their earnings.

Examiner Burchmore: Then while the mill was in operation and you were handling lumber you paid those bills thus rendered by the Iron Mountain?

Mr. Kelly: No, I don't know that I quite understand you.

Examiner Burchmore: I do not understand what the fact is, and want you to tell me what the fact is.

Mr. Kelly: You asked me how we settled with them, did you not?

Examiner Burchmore: Yes.

4745 Mr. Kelly: We do not settle with them; they settle with us.

Examiner Burchmore: I see. I was thinking of prepaid shipments.

Mr. Kelly: No, sir.

Examiner Burchmore: Most of the shipments are collect?

Mr. Kelly: Yes, sir.

Examiner Burchmore: Then the Iron Mountain furnishes you with a statement and sends you the money to cover the statement?

Mr. Kelly: Yes, sir.

Examiner Burchmore: To whom do they pay that money?

Mr. Kelly: To the Homan & Southeastern.

Examiner Burchmore: What does the Homan & Southeastern do with the check or draft?

Mr. Kelly: It deposits it in the bank.

Examiner Burchmore: They do not turn it over to the Homan Lumber Company?

Mr. Kelly: No.

Examiner Burchmore: Are the accounts of the Homan Lumber Company, and the Homan & Southeastern Railroad separately kept?

Mr. Kelly: Yes, sir.

Examiner Burchmore: Do they keep a separate bank ac-
4746 count?

Mr. Kelly: Yes, sir.

Examiner Burchmore: Does the railroad now have the same bank account that Mr. Browne or the Browne Lumber Company has?

Mr. Kelly: The railroad account continues the same as it did before.

Examiner Burchmore: Mr. Browne does not mingle his funds with the railroad funds?

Mr. Kelly: No, sir.

Examiner Burchmore: Do you have any free passes?

Mr. Kelly: Not at the present time.

Examiner Burchmore: How long since you have had them?

Mr. Kelly: Since the 1st of January.

Examiner Burchmore: Do you expect your passes to be renewed by the Iron Mountain?

Mr. Kelly: I don't know; I have not heard from them on the subject.

Examiner Burchmore: You have been receiving free interstate annual passes as an officer of this railroad?

Mr. Kelly: Yes, sir.

Examiner Burchmore: And you have used them in your travels?

Mr. Kelly: What little I have traveled I have used them.

Examiner Burchmore: You referred to a loans by the
4747 Homan Lumber Company to the Homan & Southeastern Railway which enabled the latter to extend its line. Do you recall the particulars of those loans?

Mr. Kelly: Well, from time to time as they needed money the lumber company advanced it to pay such bills as they had.

Examiner Burchmore: Has the railroad any indebtedness of that kind at the present time?

Mr. Kelly: To the Homan Lumber Company the railroad company has an indebtedness.

Examiner Burchmore: What is the amount of that indebtedness?

Mr. Kelly: On December 31st it was $6,260.80.

Examiner Burchmore: Do you recall what the amount of the loan had been at previous times?

Mr. Kelly: It varied from time to time.

Examiner Burchmore: What was the largest amount, if you can recall?

Mr. Kelly: I think this is the largest amount it has had.

Examiner Burchmore: How has the railroad paid back these advances, so far as they have been repaid?

Mr. Kelly: When ever they had a surplus of money they have given a check to the Homan Lumber Company on account.

Examiner Burchmore: Do you know what the road has cost to build?

4748 Mr. Kelly: I do not.

Examiner Burchmore: Is that shown in the annual reports you have rendered to the Interstate Commerce Commission?

Mr. Kelly: I could not tell you. Mr. McBurney has attended to all that.

Examiner Burchmore: Is he here?

Mr. Kelly: He is not.

Examiner Burchmore: Well, you understand the road has reported to the Interstate Commerce Commission?

Mr. Kelly: I could not say as to that, but I presume a report has been filed, for last December I asked him if he had filed a report, and he said he had not, but he had received the blanks and was going to make one out. Whether he has done so I could not say, but I presume he has.

Examiner Burchmore: I see you file monthly reports according to the report of our examiner made in 1909, which indicated you were about to file annual reports. Has the road any surplus?

Mr. Kelly: No.

Examiner Burchmore: Ever paid any dividends?

Mr. Kelly: No.

Examiner Burchmore: Has it been operated at a loss?

4749 Mr. Kelly: No, I do not think it has.

Examiner Burchmore: And you have paid for improvements out of the net earnings?

Mr. Kelly: With the exception of what indebtedness it has at the present time. It started in without any indebtedness, and with the improvements it has made it has at present an indebtedness of somewhere around $7,000.

Examiner Burchmore: Were those improvements worth very much more than $7,000?

Mr. Kelly: Well, I would think so.

Examiner Burchmore: Well, you built four miles of railroad?

Mr. Kelly: Yes.

Examiner Burchmore: What is that worth a mile?

Mr. Kelly: I would say $2,500.

Examiner Burchmore: What is the character of that country through which the railroad is built?

Mr. Kelly: Very flat level country.

Examiner Burchmore: It is not difficult to build the road?

Mr. Kelly: No.

Examiner Burchmore: What is the weight of the steel?

Mr. Kelly: Part of it 35 and part 56 pound, second hand, or re-layers.

4750 Examiner Burchmore: What was your total freight tonnage for the last year?

Mr. Kelly: The tonnage for 1910 according to the figures given me by the bookkeeper was 10,650 tons.

Examiner Burchmore: How much of that was lumber?

Mr. Kelly: 10,344 tons.

Examiner Burchmore: What does the balance of the tonnage consist of?

Mr. Kelly: Cotton seed.

Examiner Burchmore: And nothing else?

Mr. Kelly: Nothing else—well, I wish to modify that; there was some small amount of other traffic, but I did not separate it.

Examiner Burchmore: You say there was that weight of lumber. Do you include the logs in that weight?

Mr. Kelly: No.

Examiner Burchmore: Then you also handled the logs?

Mr. Kelly: Yes.

Examiner Burchmore: What was the tonnage of logs?

Mr. Kelly: I can only estimate that.

Examiner Burchmore: What would be the basis of your estimate, do you mean you would say four times or five times the weight of the lumber?

4751 Mr. Kelly: Understand, this is a hardwood proposition and most of the stuff is green, consequently the weight per 1,000 feet is much greater than on pine shipments. I would say that probably the logs weighed twice as much as the timber. The timber would average about five and a half to six pounds per foot, or 6,000 pounds per 1,000 feet, and the logs, I think, would weigh about 12,000 to 13,000 pounds per 1,000 feet.

Examiner Burchmore: This is a hardwood mill?

Mr. Kelly: Yes, sir.

Examiner Burchmore: For the previous year ending June 30th, 1909, your tonnage was very much heavier, explained no doubt by the destruction of the mill.

Mr. Kelly: The tonnage in the previous year was heavier on account of shipments having been all oak, while in 1910 the shipments were largely cotton wood which would weigh very much less.

Examiner Burchmore: What were your shipments for the previous year?

Mr. Kelly: I have not the figures with me.

Examiner Burchmore: I have here a statement of 29,710 tons for the fiscal year 1909 with revenue $9,067.02. That tonnage is the total of all classes of freight, and I presume the major portion of it, 99 per cent, judging from your figures there was lumber.

4752 Mr. Cowan: 29,350 is the figure I have reported for lumber.

Examiner Burchmore: Is that the fiscal year 1909?

Mr. Cowan: Yes.

Examiner Burchmore: Against operating revenue in excess of $9,000, the operating expenses were $8,388.62, apparently, so you had a small margin of profit.

Mr. Kelly: Yes.

Examiner Burchmore: Now your new mill down at—what is the name of the place you are building?

Mr. Kelly: Well, we have not named it yet. However, it is just one mile west of Clipper Spur.

Examiner Burchmore: Is it not a fact that the Iron Mountain road is building that spur from its line over to your mill?

Mr. Kelly: It is not.

Examiner Burchmore: No part of that spur?

Mr. Kelly: Not one cent's worth.

Examiner Burchmore: Have you negotiated with that company to put in a spur track?

Mr. Kelly: I have, and I saw them yesterday and they compelled me to pay for the switches and rails and they agreed to refund the cost of that spur at the rate of $2.00 per car.

4753 Examiner Burchmore: For what length of that spur, the entire length?

Mr. Kelly: No, about 150 feet.

Examiner Burchmore: And the remaining portion of the mile of its length you will have to pay for yourself?

Mr. Kelly: Yes, sir.

Examiner Burchmore: Without any refund?

Mr. Kelly: Without any refund.

Mr. Walter: Mr. Kelly, so far as the people in that vicinity wanted service by your railroad, you gave it to them?

Mr. Kelly: Yes, sir.

Mr. Walter: Now, as to this new mill, I do not know whether you understood the query which was put to you. You said you could compete with the small mill, with the mill of Mr. Browne, where the railroad received divisions.

Mr. Kelly: Well, I say that I can. Possibly I cannot, but I think so.

Mr. Walter: Can you operate a large mill or a small mill cheaper, per thousand?

Mr. Kelly: I think we can operate a small mill cheaper per thousand than we can a large mill.

Mr. Walter: Why is that?

4754 Mr. Kelly: Well, in the first place the investment is very much less; it does not require an expensive organization. There are a number of things that make it possible for the small mill to manufacture lumber cheaper.

Mr. Walter: You have a locomotive of your own there at that mill?

Mr. Kelly: Yes, sir.

Mr. Walter: That locomotive could pull a dozen cars about as cheaply as it could pull one?

Mr. Kelly: I think so.

Mr. Walter: On things of that sort the larger mill could be operated cheaper per thousand than the small mill, is not that true?

Mr. Kelly: Yes, sir.

Mr. Walter: I do not know of any other question I care to ask.

Mr. Cowan: You are equally as well prepared to carry all the people to the moon who don't desire to go, as you are to carry the traffic that is offered you?

Mr. Kelly: You mean the Homan & Southeastern?

Mr. Cowan: The Homan & Southeastern.

Mr. Kelly: Now what is your question?

4755 Mr. Cowan: I say you would be as well prepared to carry people to the moon that don't want to go, as you are to carry people who do not want to go on your line, or the Homan & Southeastern?

Mr. Kelly: Yes, sir.

Mr. Cowan: I noticed in the report of the revenue that the entire revenue was supplied by the lumber company for the year 1909, and all the tonnage except 360 tons. I suppose you have already testified before I came in of what your tonnage consisted other than that supplied by the lumber company?

Mr. Walter: Where did you get that information?

Mr. Cowan: From the report of the examiners to the Commission.

Mr. Walter: Was that furnished to you by the Commission?

Mr. Cowan: No, it was not furnished by the Commission, but by an attorney whom I employed.

Mr. Walter: Has it no certificate of the Commission as being correct?

Mr. Cowan: No.

Mr. Walter: Then we object to any foundation being laid upon that basis.

4756 Mr. Cowan: Then I will ask him.

Mr. Walter: That is all right.

Mr. Cowan: Is it true that the tonnage was practically all supplied by the lumber company for the year 1909?

Mr. Kelly: Yes, sir.

Mr. Cowan: I remarked that I supposed you had testified in regard to what it was. I am anxious to know about the tariffs. You said you had tariffs with the Iron Mountain. That is on lumber, I suppose?

Mr. Kelly: Yes, sir.

Mr. Cowan: The output of the mill?

Mr. Kelly: Yes, sir.

Mr. Cowan: How did you come to file those tariffs, who originated the idea? Did somebody suggest it to you, or how was it?

Mr. Kelly: I think it probably was suggested.

Mr. Cowan: Well, you know it was suggested, do you?

Mr. Kelly: I do not know that it was. Mr. McBurney attended to those things very largely, and I presume he may have had some information that caused him to do that.

Examiner Burchmore: I believe those facts were brought out rather fully in the opening part of his testimony. This railroad succeeded a previous railroad and there was a receivership.

4757 Mr. Cowan: He took up the tariffs after I came in and he said he did not file any other tariffs except with the Iron Mountain, and I wanted to know if he knew whether the Iron Mountain prepared the tariffs or his road prepared them.

Mr. Kelly: We filed the court tariffs.

Mr. Cowan: I am speaking of the interstate tariff.

Examiner Burchmore: He does not file any.

Mr. Kelly: No, we did not file any.

Mr. Cowan: You said you concurred in the Iron Mountain tariff. Now, I suppose somebody suggested that you concur in the tariffs, and I wanted to know how it came about?

Mr. Walter: A joint rate cannot be made without power of attorney from everybody in the tariff. This tariff says one cent higher than the joint rate named in the tariff. Of course he has to concur in it——

Mr. Cowan: That one cent per 100 pounds goes for what?

Mr. Kelly: Towards paying the cost of handling the logs and lumber.

Mr. Cowan: And it is one cent per hundred pounds on the lumber, is it?

Mr. Kelly: Yes, sir.

4758 Mr. Cowan: And not charged as a charge against the logs, and how do you estimate that in settlement between the railroad company and the lumber company?

Mr. Kelly: We do not have any settlement with the lumber company at all.

Mr. Cowan: The lumber company has to pay the one cent, does it not?

Mr. Kelly: Yes, but the Iron Mountain charges provide for that.

Mr. Cowan: They charge in the through rate one cent more?

Mr. Kelly: Yes, sir.

Mr. Cowan: So the shipper when he gets the lumber pays that?

Mr. Kelly: Yes, sir.

Mr. Cowan: To whom do the rails belong that were used in the construction of the road? Were they obtained from the Iron Mountain?

Mr. Kelly: No, sir.

(Witness excused.)

Mr. Garwood: May I interrupt at this point. In the examination of the Missouri & Louisiana case there were a number of

4759 statements called for which the witness agreed to furnish afterward, and I would like to file them. I think they cover all the propositions asked for by the Examiner. There are maps of terminals and a large envelope containing papers.

(The envelope was received and marked "Filed" by the Missouri & Louisiana Railway, as of January 25, 1911.)

Mr. Kelly: I wish to modify one answer I made a while ago in testimony as to the relative operation on a large mill, I had in mind a hardwood mill only.

Examiner Burchmore: Is the Gideon & North Island ready?

Mr. Walter: I have not heard from them.

Examiner Burchmore: The Brookings & Peach Orchard.

Mr. Walter: We will not be ready until this afternoon. May that be passed indefinitely until any day in the week?

Examiner Burchmore: Yes. The Luehrmann & Western.

(No response.)

Examiner Burchmore: The Timpson & Henderson.
Mr. Hillyer: Ready.

4760 *Timpson & Henderson Railway.*

C. W. GRAY was called as a witness and having been duly sworn, testified as follows:

Examiner Burchmore: You are the Traffic Manager of the Timpson & Henderson Railway.
Mr. Gray: I am, yes, sir.
Examiner Burchmore: How long have you been connected with that road?
Mr. Gray: Three years last October.
Examiner Burchmore: You mean with that road and its predecessor, the Timpson & Northwestern?
Mr. Gray: Yes, sir.
Examiner Burchmore: When did the Timpson & Henderson succeed the Timpson & Northwestern?
Mr. Gray: It was organized August 5th, 1906. It began operations, however, on November 21st, 1909.
Examiner Burchmore: Was there any change noticeable in the operation of the railroad when the corporation changed?
Mr. Gray: Yes, sir.
Examiner Burchmore: What took place in the operation of the railroad, what difference?
4761 Mr. Gray: Do you mean as to the amount of traffic handled?
Examiner Burchmore: I mean was there any difference before and after the change in the corporations of the railroad?
Mr. Gray: There has been some increase in the towns, and more people served, and the traffic has been increased in amount.
Examiner Burchmore: Was there any change in the officers of this railroad when the corporation changed?
Mr. Gray: Some changes, yes, sir, in the Board of Directors and other operators.
Examiner Burchmore: But the operating officials were the same before and after?
Mr. Gray: Yes, sir, with the exception of one party, the auditor was changed; we have a new auditor.
Examiner Burchmore: The Timpson & Henderson Railway connects at Timpson with the Houston, East & West Texas Railway and the Texas & Gulf Railway?
Mr. Gray: Yes, sir.
Examiner Burchmore: And extends from that point to Henderson, where a connection is made with the I. & G. N.?
Mr. Gray: Yes, sir.
Examiner Burchmore: What is its mileage?
Mr. Gray: 34 miles main line, 1.18 of sidings.
4762 Examiner Burchmore: What equipment has it?
Mr. Gray: One locomotive, one passenger coach, one combination coach and four box cars.

Examiner Burchmore: Do those box cars ever go off of this line?

Mr. Gray: We do not now send them off. They have been in service off the line, however.

Examiner Burchmore: You also make use of the equipment of other carriers for carload freight which you interchange?

Mr. Gray: Yes, sir.

Examiner Burchmore: Do you pay for those cars on a per diem basis?

Mr. Gray: Per diem basis, yes, sir.

Examiner Burchmore: When was the Timpson & Northwestern Railway incorporated?

Mr. Gray: Incorporated March 12th, 1901.

Examiner Burchmore: 1901?

Mr. Gray: Yes, sir.

Examiner Burchmore: The Ragley Lumber Company has mills on your line?

Mr. Gray: They have one.

Examiner Burchmore: Where is it located?

Mr. Gray: At Bagley, Texas.

4763 Examiner Burchmore: Where is Bagley with reference to the terminal point of this road?

Mr. Gray: It is between nine and ten miles of Timpson, and about 24 or 25 miles of Henderson, 9 to 10 miles northeast from Timpson.

Examiner Burchmore: When was this mill opened at Ragley?

Mr. Gray: It was opened before the road was constructed. I do not know, but it was along about 1899 or 1900, I think.

Examiner Burchmore: A part of this railroad was built through thereafter?

Mr. Gray: Yes, sir.

Examiner Burchmore: Which part?

Mr. Gray: The part extending from Bagley to Timpson.

Examiner Burchmore: That gave the lumber company an outlet to the market?

Mr. Gray: Yes.

Examiner Burchmore: Was the road at that time incorporated?

Mr. Gray: I think the road was perhaps constructed in about 1900, and it was incorporated a year later.

Examiner Burchmore: Who are the persons who are interested primarily in the Ragley Lumber Company, if you know?

Mr. Gray: I do not know all the stockholders. I know the principal stockholders. W. C. Ragley, M. J. Ragley, F. Ragley
4764 and J. B. Wilson of Dallas; those are the principal stockholders.

Examiner Burchmore: The Messrs. Ragley, I assume, practically control the company?

Mr. Gray: Well, yes, the Ragley Lumber Company does, yes, sir.

Examiner Burchmore: I mean the Messrs. Ragley practically control the Ragley Lumber Company?

Mr. Gray: Yes.

Examiner Burchmore: Has the Ragley Lumber Company any private logging spurs or other private tracks?

Mr. Gray: Yes, sir, they have a logging spur.

Examiner Burchmore: Where does that connect with the Timpson & Henderson Railroad?

Mr. Gray: At Pine Hill, Texas, or near Pine Hill, about a quarter of a mile from Pine Hill, Texas.

Examiner Burchmore: How far is that from Ragley?

Mr. Gray: 11 miles.

Examiner Burchmore: How long have the private logging spurs of the Ragley Lumber Company been located at that place?

Mr. Gray: Well, about the last five months at that particular place.

Examiner Burchmore: Previously they connected with
4765 your line at or near Long Branch?

Mr. Gray: Yes, sir.

Examiner Burchmore: And they took the spurs up bodily and moved them over to the other connection?

Mr. Gray: To Pine Hill, yes, sir.

Examiner Burchmore: What is the aggregate length of these logging spurs?

Mr. Gray: About four miles, at present. They are extending them some now.

Examiner Burchmore: Are those private logging spurs incorporated?

Mr. Gray: No.

Examiner Burchmore: They are operated as part of the plant?

Mr. Gray: Yes, sir.

Examiner Burchmore: Does the Ragley Lumber Company have any trackage rights over the Timpson & Henderson?

Mr. Gray: Yes, sir.

Examiner Burchmore: From Ragley to Pine Hill?

Mr. Gray: To Pine Hill, or the connection with their spur, a short distance from Pine Hill.

Examiner Burchmore: How many locomotives has the Ragley Lumber Company?

Mr. Gray: They have in use two. They had three, but
4766 only two in service. One of them is out of commission.

Examiner Burchmore: Do they own those locomotives?

Mr. Gray: Yes.

Examiner Burchmore: Does the Timpson & Henderson Railroad lease any of those locomotives?

Mr. Gray: Not at the present time.

Examiner Burchmore: They formerly leased one?

Mr. Gray: Yes, sir.

Examiner Burchmore: When did that lease terminate?

Mr. Gray: The latter part of February, 1910.

Examiner Burchmore: What was the occasion of the termination of that lease?

Mr. Gray: The road purchased an engine. At that time they did not own a locomotive or engine of their own, and they pur-

chased a new engine, and did not need that engine in service and turned it back to the Ragley Lumber Company.

Examiner Burchmore: Did not the Timpson & Henderson Railway formerly own one locomotive, and at the same time lease one from the Ragley Lumber Company?

Mr. Gray: No, only for a short period. That was during February that they leased one locomotive and owned one, but the locomotive they owned came in about February 15th; the
4767 lease expired probably February 25th, or something like that.

Examiner Burchmore: Do you recall what the consideration was for the use of that locomotive?

Mr. Gray: $1800 a year, $150 a month.

Examiner Burchmore: Who repaired it?

Mr. Gray: The Ragley Lumber Company.

Examiner Burchmore: What was the cost of this locomotive?

Mr. Gray: The repair work, do you mean?

Examiner Burchmore: What is the cost of such a locomotive in the condition that that one was?

Mr. Gray: I could not tell what would be a fair value for it. I do not know enough about locomotives to give you the value.

Examiner Burchmore: What did they pay for their new locomotive?

Mr. Gray: The Timpson & Henderson?

Examiner Burchmore: Yes.

Mr. Gray: The cost shows on the books, ten thousand dollars and something, $10,956.63 to be exact.

Examiner Burchmore: Is that a better locomotive than the one they were leasing?

Mr. Gray: Oh, yes, much better.

Examiner Burchmore: Who is the President of the Timp-
4768 son & Henderson Railway?

Mr. Gray: W. G. Ragley.

Examiner Burchmore: He is also President of the Ragley Lumber Company?

Mr. Gray: Yes, sir.

Examiner Burchmore: He was formerly the President of the Timpson & Northwestern?

Mr. Gray: Yes, sir.

Examiner Burchmore: Are any of the other officers of this railway connected in any way with the Ragley Lumber Company?

Mr. Gray: Yes, sir.

Examiner Burchmore: Please give the details of that connection?

Mr. Gray: Well, the superintendent of the railway is a stockholder in the Ragley Lumber Company, and is also Vice President of the Ragley Lumber Company.

Examiner Burchmore: What is his name?

Mr. Gray: F. Ragley, he is one of the Ragley family.

Examiner Burchmore: Any other officer of the railroad that is interested in the lumber company?

Mr. Gray: M. J. Ragley, Assistant Secretary of the railway, is Secretary of the lumber company also.

Examiner Burchmore: Is that all?

4769 Mr. Gray: That is all with the exception of individual stockholders, that is all the officers.

Examiner Burchmore: Who are the directors of the railroad, did you give their names?

Mr. Gray: Yes, I have their names. I will read their names off to you: W. G. Ragley, J. B. Edwards, Frank Ragley, A. Prycer, M. J. Ragley, E. B. Alford, J. E. Norvell, J. C. Hickey and Homer Harris.

Examiner Burchmore: Will you tell me how many shares each of those directors had in the railroad stock?

Mr. Gray: I have a list of the stockholders with the shares, which I can show you.

Examiner Burchmore: Do you propose to offer that in evidence?

Mr. Gray: Well, we would like to offer it in evidence.

(The paper so offered and identified, was received in evidence and thereupon marked Timpson & Henderson Railway Exhibit No. 1, Witness Gray, received in evidence January 25, 1911, and is attached hereto.)

Examiner Burchmore: Is it or not a fact that the Messrs. Ragley own the majority of capital stock of the Timpson & Henderson Railway?

4770 Mr. Gray: It is a fact, yes, sir.

Examiner Burchmore: What is the extent of their holdings and the proportion of their holdings to the total capital of this railroad?

Mr. Gray: The Ragley family hold 57.4 per cent of the capital stock.

Examiner Burchmore: That leaves about 45 per cent outstanding in other hands?

Mr. Gray: Something like that, yes, sir, 42.6 to be exact.

Examiner Burchmore: Who are the minority stockholders?

Mr. Gray: Various individuals living in Henderson, Texas, mostly, and some at Timpson, Texas.

Examiner Burchmore: Do any of those individuals hold their stock in trust or as agent for Messrs. Ragley or the Ragley Lumber Company?

Mr. Gray: No.

Examiner Burchmore: All bona fide outside holders?

Mr. Gray: Yes, sir.

Examiner Burchmore: How long have those persons held their stock?

Mr. Gray: Since the organization of the Timpson & Henderson Railway in August, 1909.

Examiner Burchmore: Then with the reorganization of

4771 the road, outside persons living principally in Henderson, became largely interested in the capital stock?

Mr. Gray: Yes, sir.

Examiner Burchmore: The extent of their interest being about 40 per cent.

Mr. Gray: Nearly 42 per cent.

Examiner Burchmore: Do you know what those persons paid for their stock in this railroad?

Mr. Gray: Paid money, in cash.

Examiner Burchmore: How much per share?

Mr. Gray: $100.

Examiner Burchmore: Has the stock paid any dividends?

Mr. Gray: No, sir, not yet.

Examiner Burchmore: Do you know what their object was in buying this stock?

Mr. Gray: I have some idea; I do not know as to the individual objects.

Examiner Burchmore: What is your idea?

Mr. Gray: My idea is that the most of these people who purchased stock in the railroad are Henderson citizens, and desired a railroad, as well as for probably some investment, and to build the town up.

Examiner Burchmore: Would you say that the sale of the
4772 stock in 1909 to the citizens in Henderson amounted to or was in lieu of making up a subscription list to aid the railroad?

Mr. Gray: Well, no, I should not say so.

Examiner Burchmore: In the case of a number of short line railroads we have been told that the citizens of this or that town or locality have made up a subscription and purchased part of the right of way or otherwise aided the railroad to build or improve its line?

Mr. Gray: It probably might have been some reason. I never discussed it with those individual stockholders as to just why they bought, but I am satisfied they wanted the railroad.

Examiner Burchmore: Could you take this stock list and endorse on it in red or black ink by some symbol the stockholders who are also interested in the Ragley Lumber Company?

Mr. Gray: I did not on that one.

Examiner Burchmore: I say can you?

Mr. Gray: Yes, sir, I can.

Examiner Burchmore: Put a little star opposite the names of those persons.

Mr. Gray: Yes, sir; or I can call the names.

Examiner Burchmore: How many names are there?
4773 Mr. Gray: Seven.

Examiner Burchmore: Well, read off the names?

Mr. Gray: William Bryne.

Examiner Burchmore: He owns 20 shares in the railroad apparently.

Mr. Gray: Yes, sir. Andrew Prycer.

Examiner Burchmore: He apparently has 25 shares in the railway?

Mr. Gray: Yes, sir. W. G. Ragley.

Examiner Burchmore: 1224 railroad shares.

Mr. Gray: Yes, sir. Mrs. W. G. Ragley.

Examiner Burchmore: Ten shares in the railroad?

Mr. Gray: Yes, sir. M. J. Ragley.

Examiner Burchmore: 100 shares.
Mr. Gray: Correct. Frank Ragley.
Examiner Burchmore: 100 shares.
Mr. Gray: And J. B. Wilson.
Examiner Burchmore: 500 shares.
Mr. Gray: Yes, sir.
Examiner Burchmore: Those are all the persons who are stock holders in the Ragley Lumber Company, as you understand it?
4774 Mr. Gray: Yes, sir.
Examiner Burchmore: What is the total number of shares in this railroad outstanding?
Mr. Gray: 2,500.
Examiner Burchmore: If your mathematics are correct the seven persons whose names you read hold 2079 shares.
Mr. Gray: 1979, I believe.
Examiner Burchmore: 1979?
Mr. Gray: If I have added them correctly, yes, sir.
Examiner Burchmore: That is a good deal more than 60 per cent, is it not?
Mr. Gray: 79.
Examiner Burchmore: I understood that the Ragley Lumber Company through its stockholders only had about——
Mr. Gray: 57, that was the Ragley family, I believe I stated.
Examiner Burchmore: Well, I believe that was the question. Then the stockholders of the Ragely Lumber Company are interested as stockholders in this lumber company to the extent of nearly 80 per cent?
Mr. Gray: Those seven are as individual stockholders, yes.
Examiner Burchmore: Is their holding of stock in the Ragley Lumber Company by these seven people substantially in the same proportion as their holding in the railway company?
4775 Mr. Gray: That is probably so, I cannot say. I am not familiar with the Ragley Lumber Company's interests at all, or their stockholders.
Examiner Burchmore: Are there any other saw mills on or near your line?
Mr. Gray: Yes, sir. We have several little sawmills located near the line and one directly on the line, and then we have a big planer on the line at Long Branch, Texas.
Examiner Burchmore: Who owns that planer?
Mr. Gray: The Panola Lumber Company.
Examiner Burchmore: Has that company any connection with the Ragley people?
Mr. Gray: No.
Examiner Burchmore: What are these small mills you refer to?
Mr. Gray: Well, they are little country mills. We have two small mills within a radius of two miles of Long Branch that feed this planer. Then we have a couple of saw mills near Pine Mill that ship lumber.
Examiner Burchmore: Are the owners of those mills stockholders in the railroad?

Mr. Gray: Those little mills I have been speaking of? No.

4776 Examiner Burchmore: Is there a saw mill at Acme?

Mr. Gray: I don't know where Acme is. It is not on our road.

Examiner Burchmore: Has the Ragley Lumber Company any other mills besides those at Ragley?

Mr. Gray: No.

Examiner Burchmore: Has the company any bonds?

Mr. Gray: No bonds, no, sir.

Examiner Burchmore: Any other indebtedness aside from current liabilities?

Mr. Gray: Yes, sir, it has an obligation, a loan, amounting to $45,000.

Examiner Burchmore: Who holds that loan?

Mr. Gray: Mr. W. G. Ragley.

Examiner Burchmore: What was the money used for that was realized from that loan?

Mr. Gray: Construction purposes.

Examiner Burchmore: When was the loan made?

Mr. Gray: September 1910.

Examiner Burchmore: Any new lines constructed since that time?

Mr. Gray: No.

Examiner Burchmore: That money was used to wipe out

1777 some former indebtedness?

Mr. Gray: It was used to pay for some of the construction of the road from Pine Hill to Henderson, probably the indebtedness had not all been paid for, for the construction of that road, and it was to take care of current items.

Examiner Burchmore: What is the total cost of the road including or excluding equipment?

Mr. Gray: Excluding or including, did you want it?

Examiner Burchmore: Either or both.

Mr. Gray: Well, the total cost including equipment of road, December 31st, was $294,553.93.

Examiner Burchmore: And without the equipment?

Mr. Gray: $272,434.35.

Examiner Burchmore: And the road was paid for by the capital stock which was sold for $250,000, plus the loans?

Mr. Gray: Yes, sir.

Examiner Burchmore: Had there been any other loans aside from the $45,000, the one to which you referred?

Mr. Gray: No.

Examiner Burchmore: You said the road had not paid any dividends. Have they paid interest on their loan?

Mr. Gray: They have made one payment of interest, yes, or one payment on that loan which included interest.

4778 Examiner Burchmore: This is a standard gauge line?

Mr. Gray: Yes, sir.

Examiner Burchmore: What is the weight of the rail and character of the roadbed?

Mr. Gray: The rails that are on the line are 56 pound, I believe it is.

Examiner Burchmore: Have you any ballast?

Mr. Gray: No, that road is not ballasted.

Examiner Burchmore: Any bridges or trestles?

Mr. Gray: We have quite a number of trestles, but I have not that information with me, and in that respect I would like to make our annual report to the Interstate Commerce Commission a part of the record, because that contains the information about bridges.

Examiner Burchmore: It is understood any information shown in your annual report may be referred to freely.

Mr. Hillyer: We would also include any information that might be contained in the monthly reports during 1910, that he might wish to make use of.

Examiner Burchmore: Certainly, any documents which are on file publicly with the Commission. How many train crews has this road?

Mr. Gray: Only one train crew.

4779 Examiner Burchmore: How many section gangs?

Mr. Gray: We have three regular gangs; sometimes we put on an extra one, but only three regular.

Examiner Burchmore: Do you repair or do any work on the private logging spurs we have been talking about?

Mr. Gray: No, sir, none at all.

Examiner Burchmore: Do you lend your men to the lumber company for that purpose?

Mr. Gray: No, sir, we do not lend them.

Examiner Burchmore: Do you have any stations?

Mr. Gray: Yes, sir.

Examiner Burchmore: Of course, you have stations from a tariff standpoint, but I was referring to station buildings.

Mr. Gray: Yes, sir, we have four depots.

Examiner Burchmore: Where are those depots, and designate whether they are agency stations, and also describe the character of the buildings, if you can, very briefly.

Mr. Gray: We have a station at Ragley which consists only of a warehouse and a very small station and an agent; at Long Branch we have a depot——

Mr. Hillyer: Do you know what it cost to build that depot at Ragley?

Mr. Gray: No, I do not. The cost was very light though;

4780 it did not amount to much. But at Long Branch we have a very nice depot. I however do not know what the cost of the stations were separately. I can give you the cost of the station buildings and station grounds, however. The total cost of all the station buildings. We have a station and an agent at Pine Hill also, and one at Henderson.

Examiner Burchmore: Do those agents devote their entire time to your service?

Mr. Gray: To our service and the express company; yes, sir.

Examiner Burchmore: What express company operates over your line?

Mr. Gray: Wells Fargo.

Examiner Burchmore: The agent at Ragely, is he employed sometimes by the Ragley Lumber Company?

Mr. Gray: Not at all, no, sir.

Examiner Burchmore: Is he a storekeeper?

Mr. Gray: No, sir.

Examiner Burchmore: Do you have any published time tables?

Mr. Gray: Yes, sir.

Examiner Burchmore: What is the extent of your regular service?

Mr. Gray: We operate one train each way daily.

4781 Examiner Burchmore: Is that a mixed train?

Mr. Gray: Yes, sir.

Examiner Burchmore: Do you run any purely freight trains?

Mr. Gray: No, sir; we have not so far. If we ever should have occasion to run them we would run them.

Examiner Burchmore: Do you carry passengers for hire?

Mr. Gray: Yes, sir.

Examiner Burchmore: What is the basis of your fare?

Mr. Gray: Three cents a mile, per capita.

Examiner Burchmore: Do you carry the mail?

Mr. Gray: Yes, sir.

Examiner Burchmore: Have you any telegraph service?

Mr. Gray: No telegraph service, no.

Examiner Burchmore: Telephone.

Mr. Gray: Telephone, yes, sir.

Examiner Burchmore: Your cars and locomotives are equipped with automatic couplers and other devices required by the Safety Appliance Act?

Mr. Gray: Yes, sir.

Examiner Burchmore: What was the extent of your passenger traffic?

Mr. Gray: For the calendar year 1910 we handled between 23,000 and 25,000 passengers.

4782 Examiner Burchmore: What was the revenue they contributed to your road?

Mr. Gray: $8,864.70.

Examiner Burchmore: What was the express revenue for that period?

Mr. Gray: I haven't it exactly, but it averages about $45 or $50 a month, our proportion of it.

Examiner Burchmore: And the mail?

Mr. Gray: It is a fixed basis of $123.29 a month.

Examiner Burchmore: Do you publish and file with the Interstate Commerce Commission local tariffs naming rates between points on your line?

Mr. Gray: We do not publish any individual tariffs at all.

Examiner Burchmore: Do you have joint rates and class rates with the main line connections?

Mr. Gray: Yes, sir.

Examiner Burchmore: Any commodity rates other than on lumber?

Mr. Gray: Yes, sir.

Examiner Burchmore: Do the Texas common point rates apply to the stations on your line?

Mr. Gray: Yes, sir, to some points, and some points it is less than the Texas common points, but we are in the Texas common
4783 point grouping.

Mr. Garwood: I thought I had them here, but I find I have the lumber zones delineated on another map, if you want it.

Examiner Burchmore: Do you know the extent of the lumber zone in which you are located, the extent of the rate zone?

Mr. Gray: Yes, sir. To interstate points we have a 16 and 18 cent rate. We are on the 16 and 18 cent basis to St. Louis, Thebes and Cairo.

Examiner Burchmore: What division do you receive out of that rate?

Mr. Gray: Two cents out of St. Louis and Cairo rates.

Examiner Burchmore: What are the divisions you receive on traffic turned over to the Houston, East & West Texas?

Mr. Gray: Well, it varies. Do you mean on lumber?

Examiner Burchmore: On lumber and forest products.

Mr. Gray: It will average about three cents per 100 pounds, that is the average. The interstate average is probably three and a half cents per hundred pounds.

Examiner Burchmore: What are the divisions, how do they range in amount?

Mr. Gray: Well, on business in to Rock Island points in Kansas and Colorado where we can handle in connection with the Kansas City Southern from Shreveport we get four cents per hundred
4784 pounds. Most of our lumber in connection with the Houston, East & West Texas to interstate points is handled over that route.

Examiner Burchmore: Do you get any divisions in connection with movements over the Texas & Gulf?

Mr. Gray: No, sir, we have no divisions with them.

Mr. Garwood: That is a Santa Fe property, your Honor.

Examiner Burchmore: Do you interchange any lumber with them?

Mr. Gray: No, sir, not unless we are forced to on Texas business. We have interchanged some Texas lumber, but no interstate lumber at all.

Examiner Burchmore: Do you simply have joint rates with that road?

Mr. Gray: We have had, yes, sir. I think they were cancelled in 1908, in September, I believe.

Examiner Burchmore: What division did you receive previous to the cancellation, do you remember?

Mr. Gray: One and one-half cents per 100 pounds at that time.

Examiner Burchmore: To all points?

Mr. Gray: To all points, yes, sir.

Examiner Burchmore: What divisions are accorded by the
4785 International & Great Northern to lumber traffic which you tender to them?

Mr. Gray: I stated awhile ago that we received two cents per 100 pounds to all points east of the Mississippi River that base on St. Louis and Cairo, and all points north, Missouri, Iowa, and so forth, we receive three cents per 100 pounds. The division varies from two to three cents in connection with the I. & G. N.

Examiner Burchmore: Are your lumber rates on a milling in transit basis?

Mr. Gray: Not at the present time. I have had that basis in, but it is cancelled now and we are not using it.

Examiner Burchmore: Did you avail yourself of the privilege when you had it?

Mr. Gray: I did not. The shippers did. I published the provision for them myself.

Examiner Burchmore: Did the Ragley Lumber Company use it?

Mr. Gray: No.

Examiner Burchmore: Do you sell any tickets to your passengers?

Mr. Gray: Oh, yes.

Examiner Burchmore: You endeavor to comply with all the State and Federal laws regarding carriers?

4786 Mr. Gray: We do.

Examiner Burchmore: The Ragley Lumber Company at the present time has and previously has had trackage rights over your line from the junction of its private spurs with your road to Ragley?

Mr. Gray: Yes, sir.

Examiner Burchmore: Any contract covering those rights?

Mr. Gray: There is a contract and we wish to make it a part of the record.

Examiner Burchmore: Have you it for filing?

Mr. Gray: Yes, sir.

(The paper so offered and identified, was received in evidence and thereupon marked Timpson & Henderson Exhibit No. 2, Witness Gray, received in evidence January 25, 1911, and is attached hereto.)

Examiner Burchmore: What are the terms of that contract in a general way?

Mr. Gray: From a revenue standpoint it provides that the Ragley Lumber Company shall pay the Timpson & Henderson 25 cents per train mile for operating over that piece of track for the trackage rights, and they are at all times subject to the orders from the train despatcher of our road.

4787 Examiner Burchmore: That is 25 cents a train mile loaded and empty both, or simply loaded?

Mr. Gray: Both ways, loaded and empty, per train mile.

Examiner Burchmore: This agreement is apparently dated November 21st, 1909, and signed by Mr. W. G. Ragley as President of the Timpson & Henderson and by W. G. Ragley as President of the Ragley Lumber Company?

Mr. Gray: Yes, sir.

Examiner Burchmore: Its term is one year?

Mr. Gray: Yes, sir.

Examiner Burchmore: So that apparently it expired on November 21st, 1910.

Mr. Gray: Well, that is true, there is a duplicate of that contract which has been made and entered into again. However, it had not been executed and I could not bring the copies.

Examiner Burchmore: As a practical matter, they have continued the force and effect of this contract?

Mr. Gray: That is it exactly.

Examiner Burchmore: Was there any contract between the Timpson & Northwestern and the Ragley Lumber Company of a similar nature?

4788 Mr. Gray: No, sir.

Examiner Burchmore: But when the Timpson & Northwestern was operating this road, the Ragley Lumber Company had the same trackage right, did they not?

Mr. Gray: They did not have any trackage right at all and did not operate over the Timpson & Northwestern.

Examiner Burchmore: How did they get their logs to the mill?

Mr. Gray: They logged in another direction entirely; they had no logging land on the Timpson & Northwestern. They got their logs in on a private line into Ragley.

Examiner Burchmore: That line ran into Ragley?

Mr. Gray: The logging road did, yes, sir.

Examiner Burchmore: Have you figures which you desire to put in evidence with regard to your freight traffic?

Mr. Gray: We have, yes, sir. My attorney has a copy.

Mr. Hillyer: They are very short, and I would like to have him read it in the record.

Mr. Gray: The freight revenue for the year ending December 31st, 1910, was $39,491.10; passenger revenue $8,864.70. Other transportation revenue $2,359.02. Non-transportation revenue $253.57. Total operating revenue $50,968.39.

4789 Examiner Burchmore: That is very much larger revenue than you had for the fiscal year ending June 30th, 1910, is it not?

Mr. Gray: Yes, sir, much larger.

Examiner Burchmore: Have you the operating expenses there?

Mr. Gray: I have the total operating expenses. My figures do not show them divided under the heading of the separate accounts.

Examiner Burchmore: What was the total?

Mr. Gray: $35,293.01.

Examiner Burchmore: Then you had quite a large net operating revenue?

Mr. Gray: The net revenue was $15,675.38.

Examiner Burchmore: What disposition was made of that revenue?

Mr. Gray: It is carried in our account to income credit.

Examiner Burchmore: You will soon be paying dividends at that rate, won't you?

Mr. Gray: We will pay off that indebtedness, and probably will be paying dividends, yes. We hope to.

Examiner Burchmore: Have you any figures dividing
4790 those operating revenues as between the traffic supplied by the Ragley Lumber Company and other traffic?

Mr. Gray: I have not that, no, sir, but I have the number of ton of freight that were supplied by the Ragley Lumber Company and it probably would give you some idea.

Examiner Burchmore: All right, give us those figures.

Mr. Gray: My figures show that the Ragley Lumber Company shipped 11,385 tons.

Examiner Burchmore: For that calendar year?

Mr. Gray: Yes, sir, which amounts to 27½ per cent of the total tonnage.

Mr. Hillyer: What percentage of the lumber company?

Mr. Gray: It amounts to 43.4 of their total lumber shipped.

Examiner Burchmore: Have you any further figures on the freight tonnage?

Mr. Gray: Yes, sir, I have the tonnage divided in one or two commodities. It shows lumber and other forest products 26,189.7. cotton 3,067.5 and all other commodities 12,207.2. Total tonnage 41,464.4.

Examiner Burchmore: Of which lumber tonnage 26,000, how much was supplied by the Ragley Lumber Company?

Mr. Gray: 11,385 tons supplied by the Ragley Lumber Company. I also have a little further statement with regard to freight
4791 movement which I would like to state in the record.

Examiner Burchmore: What is it?

Mr. Gray: The number of carloads of lumber supplied by the Ragley Lumber Company was 506 cars; by other lumber shippers 523 cars; ties 57 cars, flour, grain and grain products 86 cars; fertilizers 40 cars, potatoes 28 cars; all other commodities 424 cars.

Mr. Hillyer: Give that total cotton shipment.

Mr. Gray: In addition to that I want to state for the record 12,270 bales of cotton.

Examiner Burchmore: Do the Messrs. Ragley have any interest in any other manufacturing enterprise down there in Texas in this vicinity?

Mr. Gray: Not that I know of.

Examiner Burchmore: Do they buy or sell cotton?

Mr. Gray: No, sir, not at all.

Examiner Burchmore: Were they interested directly or indirectly in any of the other traffic you have referred to?

Mr. Gray: No, sir.

Examiner Burchmore: Do they have any company stores at Ragley?

Mr. Gray: They are probably interested in a little merchandise traffic; yes, they have a commissary there.

4792 Examiner Burchmore: Do you know the extent of their traffic there?

Mr. Gray: No, sir. It does not amount to but very little. I do not know to what extent it does amount. They have a store with probably $6,000 or $7,000 of stock in it or $8,000, I do not know what that amounts to.

Examiner Burchmore: What would you say it would amount to at the outside figure, not more than how much?

Mr. Gray: It would not amount to more than 8 or 10 carloads of freight in the whole year.

Examiner Burchmore: Have you assigned to the Ragley Lumber Company in that new distribution of traffic, the lumber which has been manufactured at their plant but which is sold f. o. b. point of origin and shipped on account of someone else?

Mr. Gray: I do not believe I understand what you are driving at.

Examiner Burchmore: You mentioned 11,000 tons in round numbers of lumber handled for the Ragley Lumber Company by the Timpson & Henderson Railway?

Mr. Gray: Yes, sir.

Examiner Burchmore: Is that the entire output of the Ragley Mill?

4793 Mr. Gray: That is, yes, sir—it was last year. It was all that was shipped.

Examiner Burchmore: As a matter of fact, previous to the period you have given, the Ragley Lumber Company contributed the major portion of the tonnage of this railroad, did it not?

Mr. Gray: That is a fact, yes, sir.

Examiner Burchmore: When did that cease to be a fact?

Mr. Gray: When the extension into Henderson was completed about November 21st, 1909.

Examiner Burchmore: I have no further questions at present.

Mr. Hillyer: We have here a copy of the charter and the amended charter, showing the manner in which the Timpson & Henderson began operation in Texas, and if it is permissible I would like to offer the certified cop-es of the charter and amended charter.

Examiner Burchmore: I do not think it is necessary to file that. This railroad is incorporated as a common carrier under the laws of Texas?

Mr. Hillyer: Will you answer that, Mr. Gray.

Mr. Gray: That is correct, yes, sir.

Mr. Hillyer: Is it incorporated under the laws of Texas relative to the incorporation of railroads as common carriers in Texas?

4794 Mr. Gray: It is, yes, sir.

Mr. Hillyer: What was the trackage of the Timpson & Northwestern?

Mr. Gray: A little above nine miles.

Mr. Hillyer: From what point to what point?

Mr. Gray: From Timpson to Ragley.

Mr. Hillyer: At the time of the incorporation of the Timpson & Henderson, what tracks did the Ragley Lumber Company own outside of the Timpson & Northwestern?

Mr. Gray: Well, they had logging spurs; they had one logging spur which was extended to Long Branch and Pine Hill. They had several of those. Those logging roads are put out in one section of the timber and moved from time to time as the occasion may necessitate.

Mr. Hillyer: Which is the farthest point from Ragley, Pine Hill or Long Branch.

Mr. Gray: Pine Hill.

Mr. Hillyer: Did the Ragley Lumber Company own a continuous line from Ragley to Pine Hill?

Mr. Gray: They did, yes, sir.

Mr. Hillyer: When the idea was conceived to incorporate the Timpson & Henderson Railroad, what additional tracks had to be built to carry the road from Pine Hill to Henderson?

4795 Mr. Gray: Between 11 and 13 miles.

Mr. Hillyer: Was that all new construction?

Mr. Gray: That was all new construction, yes.

Mr. Hillyer: When the Timpson & Northwestern sold out to the Timpson & Henderson, what was the consideration which was paid for the tracks from Timpson to Ragley, if you can give it.

Mr. Gray: I haven't those figures here. I can give it to you from Timpson to Pine Hill, Timpson to Ragley I think was somewheres about $140,000.

Mr. Hillyer: To make that answer a little clearer, what was the consideration paid by the Timpson & Henderson jointly to the Timpson & Northwestern and the Ragley Lumber Company for the line from Timpson to Pine Hill?

Mr. Gray: $152,000.

Mr. Hillyer: Was the Timpson & Northwestern owned entirely by the Ragley Lumber Company stockholders at that time?

Mr. Gray: I think it was. I do not think there was anyone else interested in it but the Ragley Lumber Company's stockholders.

Mr. Hillyer: Please explain how the $152,000 paid by the Timpson & Henderson was paid. Was it paid in cash and if not, how?

Mr. Gray: No, sir, it was not. It was paid by an issue

4796 of stock.

Mr. Hillyer: Explain the distribution of that stock, please.

Mr. Gray: Well, the stockholders in the Ragley Lumber Company, who desired to take out stock in the railroad, were paid for this road with this stock. In other words, the Ragley Lumber Company was paid this amount, $150,000, and those stockholders who desired it took it out in stock and those who did not, as I understand it, Mr. Ragley took their proportion of the stock.

Mr. Hillyer: The capital stock of the Timpson & Henderson is $250,000, is it not?

Mr. Gray: Yes, sir.

Mr. Hillyer: What was done with the remaining stock in the company?

Mr. Gray: It was subscribed for and paid in cash.

Mr. Hillyer: By whom, mostly.

Mr. Gray: By individuals, mostly citizens of Henderson. However, there are one or two I think at Timpson, and other places.

Mr. Hillyer: What was the extent of that cash sale of stock?

Mr. Gray: $98,000.

4797 Mr. Hillyer: What was the cost of building the new line from Pine Hill into Henderson?

Mr. Gray: The actual cost of the construction of the road itself was $120,434.35.

Mr. Hillyer: Then you did not have enough cash from that cash sale of stock to pay for the extension from Pine Hill to Henderson?

Mr. Gray: Hardly, no, sir.

Mr. Hillyer: What did the railroad company do for the purpose of obtaining that balance?

Mr. Gray: They negotiated a loan for $45,000.

Mr. Hillyer: How is that loan secured?

Mr. Gray: By deed of trust.

Mr. Hillyer: Covering what?

Mr. Gray: Covering the Timpson & Henderson's property.

Mr. Hillyer: Who is the holder of that?

Mr. Gray: W. G. Ragley.

Mr. Hillyer: What rate of interest does the railroad company pay on that loan.

Mr. Gray: Six per cent.

Mr. Hillyer: When was it made?

Mr. Gray: The loan was made on September 22nd, 1910.

Mr. Hillyer: What are the terms of payment?

4798 Mr. Gray: I don't believe I could give you that information offhand.

Mr. Hillyer: Have you the right to curtail that loan at any time?

Mr. Gray: Yes, sir.

Mr. Hillyer: Has the company as a fact curtailed that loan to any extent?

Mr. Gray: They have made a payment of $8,000 on it.

Mr. Hillyer: When?

Mr. Gray: On December 22nd, 1910.

Mr. Hillyer: Do you lease any equipment at the present time?

Mr. Gray: No, sir.

Mr. Hillyer: What arrangements have you with your trunk lines about supplying cars for traffic which originates on your line?

Mr. Gray: We have no arrangement whatever; we simply order empty cars or equipment from them, and usually have very little trouble in securing it. We have no definite arrangements with them.

Mr. Hillyer: What per diem do you pay for those cars when on your line?

4799 Mr. Gray: We pay the standard rate of per diem, 30 cents a day, prescribed by the American Railway Association.

Mr. Hillyer: Are you a member of that association?

Mr. Gray: I am not, no, sir.

Mr. Hillyer: Is the Timpson & Henderson subject to any demurrage rules, with its connecting carriers?

Mr. Gray: It is subject to the demurrage laws of Texas.

Mr. Hillyer: Where is the Ragley plant located?

Mr. Gray: Located at Ragley, Texas.

Mr. Hillyer: How far is that from the main line of the Houston, East & West Texas?

Mr. Gray: About ten miles.

Mr. Hillyer: State if you know, why the mill was located at that point?

Mr. Gray: In the original place?

Mr. Hillyer: Yes.

Mr. Gray: I do not know, but I presume it was to get it in the heart of their timber. The timber holdings or the biggest part of it was out there some eight or ten miles from Timpson, and I presume they put it out there to get it in the heart of the timber and possibly reduce the expense of the log haul.

4800 Examiner Burchmore: Did they expect to haul their lumber over to the main line of railroad?

Mr. Gray: That is what they built the railroad for, was to haul the manufactured lumber over there.

Examiner Burchmore: They could not have hauled the lumber by wagon or team?

Mr. Gray: I do not think so at all.

Examiner Burchmore: Could they have operated their mill successfully if they had had to stand the cost of hauling the lumber by railroad over to Timpson or Henderson?

Mr. Gray: I do not know. By railroad?

Examiner Burchmore: If they had had to pay out of their own pockets the expense of running this railroad?

Mr. Gray: I doubt if they could. I am not prepared to state, however. I know very little about the lumber business, the cost of manufacturing lumber, but I hardly see how.

Mr. Hillyer: What other position do you hold with the Timpson & Henderson Road at this time?

Mr. Gray: At the present time I am in charge of its accounts, in addition to the traffic work.

Mr. Hillyer: You gave a list of the directors awhile ago?

Mr. Gray: Yes, sir.

4801 Mr. Hillyer: I will ask you how many of those directors are stockholders in the Ragley Lumber Company?

Mr. Gray: Four of them.

Mr. Hillyer: How many are not?

Mr. Gray: Five.

Mr. Hillyer: Have you a published time card of your schedule?

Mr. Gray: We have, yes, sir.

Mr. Hillyer: I would like to offer that in evidence.

(The time card so offered and identified, was received in evidence and thereupon marked Timpson & Henderson Exhibit No. 3, Witness Gray, received in evidence January 25, 1911, and is attached hereto.)

Mr. Hillyer: What passenger connections do you make at either end of your line, Mr. Gray?

Mr. Gray: I do not believe I understand you.

Mr. Hillyer: Do you make close connections or poor connections with your passenger trains at either end of your line?

Mr. Gray: We make connections with two or three trains at both ends of the line, fair connections.

Mr. Hillyer: I would like to give the post office department's official number of that postal contract. It is route No. 150,158.

4802 Mr. Gray, do you have joint arrangements with either of your connecting carriers at either junction point?

Mr. Gray: We have joint facilities with the Houston, East & West Texas, and have a joint agent.

Mr. Hillyer: Where is that?

Mr. Gray: At Timpson.

Mr. Hillyer: Have you any connection whatever with the Ragley Lumber Company?

Mr. Gray: None whatever, no, sir.

Examiner Hillyer: You have stated all of the officers who are interested in both companies, have you?

Mr. Gray: I have, yes, sir.

Mr. Hillyer: State if you know, the extent of the Ragley Lumber Company's remaining timber which would be handled by the Timpson & Henderson Railroad Company?

Mr. Gray: My understanding is that—I do not know the amount of timber they have left, but they expect to be cut out entirely within the next year, but I could not state how much timber they have. I do not really know.

Mr. Hillyer: I just wanted to know how long that cut would last.

Mr. Gray: But the cut will not last longer than a year or so.

4803 Mr. Hillyer: What divisions do you have with your connecting lines on cotton?

Mr. Gray: We receive 23 cents on cotton to Houston and Galveston in connection with both the Houston, East & West Texas and the International & Great Northern, and we receive 20 cents per 100 pounds in connection with the Santa Fe, that is a flat basis.

Mr. Hillyer: Are the rates with the other carriers influenced by the point where the cotton is compressed after it leaves your line?

Mr. Gray: Oh, yes, of course. There are all kinds of compressing and concentration arrangements and back haul arrangements in Texas. I do not know whether it would be necessary to go into detail about that. I am willing to if you want it.

Mr. Hillyer: I think that is all. How many trestles are there on your line between Timpson and Henderson?

Mr. Gray: I could not answer that, but it is on record with the Commission.

Mr. Hillyer: Do you not know in a general way?

Mr. Gray: No, I would not like to state, but there are some eight or ten, maybe more.

4804 Mr. Hillyer: What is the basis of your divisions with your connecting carriers on other stuff which originates on your line, on inbound or outbound traffic.

Mr Gray: For example, I presume I would have to make an example on that to make it clear, on St. Louis, Kansas City, Vicksburg and New Orleans we receive 30 per cent of the proportion accruing south of either of those crossings or basing points on through rates beyond. We also receive 30 per cent of the St. Louis, Kansas City and New Orleans flat rate to our local stations, and 20 per cent to

Henderson in connection with the Houston, East & West Texas. Our basis with the I. & G. N. and Missouri Pacific and Cotton Belt when routed in connection with the I. & G. N., when it takes it to interstate points, is 25 per cent.

Mr. Hillyer: Are you a party to any tariffs with the Santa Fe on inbound stuff from any point?

Mr. Gray: I am a party to one tariff which the Santa Fe is also a party to, and I presume you want to know if we have any rates in connection with the Santa Fe?

Mr. Hillyer: Yes.

Mr. Gray: There is one tariff in which the Santa Fe have not exceptions to our line, and that applies from New Orleans to Texas common points, and we have naturally some shipments in connection with the Santa Fe on that rate.

4805 Mr. Hillyer: What percentage of the New Orleans rate do you absorb?

Mr. Gray: We absorb 25 per cent in those cases.

Mr. Coleman: Have you that tariff here?

Mr. Hillyer: I think we can give you Mr. Leland's number of it. Have you Mr. Leland's number of that tariff?

Mr. Gray: I cannot give it from memory, I haven't it with me.

Mr. Coleman: We cannot hear you.

Mr. Gray: I say I cannot furnish you that.

Mr. Hillyer: Did you say the Santa Fe did not concur in that tariff, or did?

Mr. Gray: They do, they are a party.

Mr. Hillyer: And do the rates apply in connection with the Santa Fe on your line?

Mr. Gray: I will explain that and make it clear. The Santa Fe people contended it did in one or two cases, and I contended that it did not, but they won out in a case, and we had to handle through shipments on the rates published in that tariff.

Mr. Hillyer: What was that?

Mr. Gray: It was a shipment of merchandise freight from New Orleans to points on the T. & H.

4806 Examiner Burchmore: Has the Timpson & Henderson been recognized as a common carrier by the Railroad Commission of Texas?

Mr. Gray: Yes, sir.

Examiner Burchmore: What form did that recognition take?

Mr. Gray: I do not know just exactly how you mean, but the Commission formally recognized the road and took jurisdiction over it.

Examiner Burchmore: When did they do that?

Mr. Gray: In 1901, when they first took jurisdiction over the Timpson & Northwestern.

Examiner Burchmore: As a common carrier railroad?

Mr. Gray: Yes, sir.

Examiner Burchmore: That was before it was incorporated?

Mr. Gray: No, it was incorporated in 1901 or 1903.

Examiner Burchmore: Has it always recognized the railroad as a common carrier?

Mr. Gray: Yes, sir.

Examiner Burchmore: I was under the impression——

Mr. Gray: I may be mistaken as to the date.

Mr. Garwood: May I ask a question right here. To show that it did is it not a fact that it approved the mortgage or trust deed securing that $42,000?

4807 Mr. Gray: Yes, sir.

Mr. Garwood: Did they not send their engineer over the road at that time before they gave their official approval to the mortgage?

Mr. Gray: Yes, sir.

Examiner Burchmore: What valuation did the Texas Commission place on this road, if any?

Mr. Gray: I have not the exact figures. I think as well as I remember it was something like $6,600 a mile for the purpose of that loan, but I am not sure.

Examiner Burchmore: That was the full valuation they assigned to the road, irrespective of that?

Mr. Gray: I do not know, I would not answer that. Probably a little more than that.

Examiner Burchmore: Who routes the lumber you receive from the Ragley Lumber Company?

Mr. Gray: Well, I usually do or the shippers generally show it on their bills of lading.

Examiner Burchmore: You mean the Ragley Lumber Company usually specifies the routing?

Mr. Gray: They do, but I take the liberty sometimes of changing it if I want to, if I have two routes.

4808 Examiner Burchmore: Do you get their consent to changing it?

Mr. Gray: I always mention it to them, yes, sir.

Examiner Burchmore: And they always consent?

Mr. Gray: In some cases they have. They are very often—the party they sell the lumber to demands a delivery by a certain road, and of course we have got to respect the routing in that case; but where there is no routing specified or where they specify a routing that is to our disadvantage, I usually change it and notify them of the fact or ask their permission to change it. If they do not specify a route I will route it to the best advantage.

Mr. Hillyer: How do the divisions you receive on lumber traffic compare with the divisions you receive on the other traffic handled by your road?

Mr. Gray: Well, we——

Mr. Hillyer: Proportionately, or speaking comparatively.

Mr. Gray: We get a much better division on merchandise and other commodities than we do on lumber.

Mr. Hillyer: Can you from the figures you have there give us approximately the amount of inbound tonnage and the amount of outbound tonnage of your road just approximately?

4809 Mr. Gray: I could not give you the amount. I might recall these items again, and I could tell you practically what was in and out bound stuff in that carload movement.

Mr. Hillyer: If you will.

Mr. Gray: I showed a total of 1032 cars of lumber. That was all outbound stuff. I showed 57 cars of ties, that was all outbound stuff, 86 cars of grain and grain products, which is inbound. 40 cars of fertilizer, inbound. That 424 cars of other commodities was both in and out, and the 12,270 bales of cotton all outbound. I cannot give the carloads of that because it moved three or four bales in the car.

Mr. Hillyer: Has there been any attempt by either of your connecting carriers to cut out any of the through routes and rates which they have with you except the lumber rates.

Mr. Gray: Not that I am aware of, no.

Mr. Hillyer: They still continue to recognize you as a common carrier as to all other commodities but lumber, is that a fact?

Mr. Gray: Yes, sir.

Mr. Hiller: Mr. Gray, are any of the divisions on lumber which you receive from your connecting carriers, what would be known in this proceeding as milling in transit allowances?

4810 Mr. Gray: No, sir, none whatever.

Mr. Hillyer: To the Ragley Lumber Company or any other shipper on your line?

Mr. Gray: Not now. I explained to the Examiner a while ago that I had had in not a milling in transit but a planing in transit arrangement for the benefit of one or two shippers on our line, but that had been cancelled. The Ragley Lumber Company of course did not use it, so we have no such arrangement of any nature now.

Mr. Hillyer: I want to ask you to take that list which you made of the names of your principal carload shippers. Have you that with you?

Mr. Gray: Yes.

Mr. Hillyer: Let it be marked.

(The paper so offered and identified, was received in evidence and thereupon marked Timpson & Henderson Exhibit No. 4, Witness Gray, received in evidence January 25, 1911, and is attached hereto.)

Mr. Hillyer: Are any of those parties whose names appear on here except that of the Ragley Lumber Company, interested in any way in the Ragley Lumber Company?

Mr. Gray: None.

4811 Mr. Coleman: Can we have a copy of it?

(Paper handed Mr. Coleman by Mr. Hillyer.)

Mr. Hillyer: Mr. Gray, I want to ask you briefly to give us, if you will, a description of the different towns or switches located along your line, and what goes on there.

Examiner Burchmore: Make it very brief.

Mr. Gray: We have a little switch known as Garrison Switch, which was recently put in to accommodate a gin and other enterprises at an inland town by the name of Caledonia. Ragley has a population of about 500 people, three stores, and serves a few merchants and farmers at an inland town by the name of Hickey.

Mr. Hillyer: Is there a cotton gin at Hickey or Ragley?

Mr. Gray: One at Ragley, yes, sir.

Mr. Hillyer: Is that owned by the Ragley Lumber Company?

Mr. Gray: No. Long Branch has a population of 300 people, one planing mill and five stores, a hotel, barber shop, and a drug store, and two saw mills within two miles that both ship from this point.

Mr. Hillyer: Is that point dependent entirely on the Timpson & Henderson for its railroad service?

Mr. Gray: Yes, sir. From Long Branch we serve an inland town by the name of Clayton, about four or five miles distant.

4812 Mr. Hillyer: Is there another town with a very interesting name there near that station?

Mr. Gray: Also we have a town by the name of Jumbo about three miles distant. Long Branch has handled about 700 bales of cotton this season. At Pine Hill there is a population of about 300 people, five stores, one bank, one post office, a residence, hotel and two saw mills, and it serves a little inland town by the name of Fair Play, five miles distant, also a little inland town by the name of Brockfield. This place has handled about 3,300 bales of cotton this season.

Mr. Coleman: What station is that near?

Mr. Gray: That is near Long Branch, between Long Branch and Henderson, about three miles from Long Branch.

Mr. Coleman: How far from Henderson?

Mr. Gray: Between 11½ and 13 miles.

Examiner Burchmore: Proceed as rapidly as possible.

Mr. Hillyer: I think this will be important, if the Examiner will permit it.

Examiner Burchmore: Where is the balance of your 12,000 bales which you handled last year?

Mr. Gray: I have a list made up if you wish. We handled a little over 7,000 bales out of Henderson.

Examiner Burchmore: I thought you had 11,000 out of

4813 Pine Hill?

Mr. Gray: No, 3,000.

Examiner Burchmore: Well, that is enough. Is the rest of your line as good traffic producing as the portion south of Pine Hill?

Mr. Gray: Yes, sir.

Mr. Hillyer: If you will indulge me, I do not think it will take more than five minutes to get the balance of this in.

Examiner Burchmore: All right.

Mr. Gray: We have another little town, Hall, one store located in a thickly settled community. Pool Switch, one store, one saw mill and a cotton gin, and a population of possibly 100 people. Howeth has two stores, a post office and a little saw mill. Timpson and Henderson, I will not read those descriptions, I do not presume it is necessary. They are towns of about 3,000 or 4,000 population, doing both wholesale and retail business.

Mr. Hillyer: I wish you would state the facts in connection with that new enterprise which is held up pending the outcome of this tap line hearing.

Mr. Gray: The planing mill or lumber establishment you
4814 are talking about, I presume?

Mr. Hillyer: Yes.

Mr. Gray: There are parties who own timber between our line and points on the Houston, East & West Texas, the distance is approximately the same. They have practically completed arrangements or had completed arrangements to locate this planer on our line and had cleared off the ground and it was the intention to lay out a little town site, and the ground has been cleared for a switch, and they intend to establish this planer on our line and log and put little saw mills in their timber, but my understanding is from them that if those rates are cancelled they will be unable to locate on our line, and they intend to move on the H. E. & W. T.

Examiner Burchmore: Who are these people?

Mr. Gray: A party by the name of Elliott & Meely, it is a partnership.

Examiner Burchmore: Are the Ragley people interested in that partnership?

Mr. Gray: No.

Examiner Burchmore: Do they own any of the land?

Mr. Gray: No.

4815 Examiner Burchmore: Where is this proposed location of the planing mill?

Mr. Gray: Between Ragley and Long Branch, about half way. They are on that map.

Examiner Burchmore: Where are their timber holdings, west of there?

Mr. Gray: They are south, between there and the Houston East & West Texas line.

Examiner Burchmore: Are they also between there and the Caro Northern Railroad?

Mr. Gray: Yes, sir, some parts of it are located towards the Caro Northern. The biggest part of it is not very close to them, however.

Examiner Burchmore: Do they consider going up to the Caro Northern?

Mr. Gray: No, they have not been before me with that fact. They have considered building on our line and have cleared the ground.

Examiner Burchmore: Do you have any agreement with the Rock Island regarding divisions?

Mr. Gray: None whatever, only through our connections. We publish regular division sheets to which the Rock Island are a party.

4816 Examiner Burchmore: Have you got an agreement with the Kansas City Southern?

Mr. Gray: No, with the exception of those divisions.

Examiner Burchmore: But I understood your statements of divisions to indicate you received the maximum division on shipments destined to Rock Island points.

Mr. Gray: That is correct.

Examiner Burchmore: Why do you get a larger division from the Rock Island than the other lines?

Mr. Gray: That is probably true because the Rock Island Lines allow the lines south of junction points, Shreveport and North Texas junction points more than other roads will.

Examiner Burchmore: Did you write this letter of February 2nd, 1910, to Messrs. Brooks & Woolworth, Carthage, Texas (handing paper).

Mr. Gray: Yes, sir, I wrote that letter.

Examiner Burchmore: Is that the original letter?

Mr. Gray: I presume it is, that is my signature.

Examiner Burchmore: You see it says "Signed" down opposite your name, and I thought perhaps it was a copy.

Mr. Gray: I do not know who put that "signed" there. That is my signature.

4817 Examiner Burchmore: Perhaps it is as well to file it as part of your testimony.

(The paper so offered and identified, was received in evidence and thereupon marked Timpson & Henderson Exhibit No. 5, Witness Gray, received in evidence January 25, 1911, and is attached hereto.)

Examiner Burchmore: With that letter you enclosed to Messrs. Brooks & Woolworth, who are apparently general attorneys for your company, a copy or supposed copy of the petition which the Panola County Lumber Company and others were contemplating filing with the Interstate Commerce Commission?

Mr. Gray: Yes.

Examiner Burchmore: Do you know whether such petition was actually filed?

Mr. Gray: It was not filed, no, sir.

Examiner Burchmore: And in transmitting that petition you stated that the purpose of the petitioners was to secure a restoration of the old joint rates on lumber formerly in effect over your line in connection with the Santa Fe, which had been cancelled in 1908.

Mr. Gray: Yes, sir.

Examiner Burchmore: You further said that on your part
4818 as representing the Timpson & Henderson Railroad you were entirely willing to re-establish those joint rates and join with the Santa Fe in reasonable divisions?

Mr. Gray: Yes, sir.

Examiner Burchmore: But that the Santa Fe was unwilling to restore them. The co-complainants, the Panola County Lumber Company in that contemplated action included the Ragley Lumber Company?

Mr. Gray: I presume so. I do not know.

Examiner Burchmore: They are named in that petition. The copy also contains the name of W. A. Elliot, of Ragley, Texas. Who is he?

Mr. Gray: He is a lumber shipper; he is one of the parties I mentioned in connection with that lumber planing establishment.

Examiner Burchmore: Who are Patterson & McDuffy of Ragley?

Mr. Gray: Merely lumber shippers from that territory.

Examiner Burchmore: Joseph Slay & Company.

Mr. Gray: That is a little saw mill operator, but he is out of business now, however.

Examiner Burchmore: By whose suggestion did you write that letter, if anyone.

Mr. Gray: By no one's suggestion. I made a copy of that petition, I think, that I got from the Panola County Lumber Company, and wrote that letter on my own suggestion.

4819 Examiner Burchmore: You composed the letter yourself?

Mr. Gray: Certainly.

Mr. Hillyer: You told the Examiner that the weight of the rails on this right of way was what?

Mr. Gray: 56 pounds, if I am not mistaken.

Mr. Hillyer: What part of the road does that refer to, the whole of it?

Mr. Gray: The whole of it. There may be, however, a mile or two, or three or four miles that the steel is not quite that heavy. I am not sure, but I think there is between Ragley and Long Branch some lighter steel. In other words, the heavy steel has not been placed all over the road, but with the exception I have stated.

Mr. Cowan: You have been attending these hearings, I suppose you were here yesterday?

Mr. Gray: I was here part of the time.

Mr. Cowan: You get, as I understand, from shipments which you give to the Houston, East & West Texas, and which you may deliver to Rock Island connections by way of Shreveport, destined to points east of Cairo and Thebes——

Mr. Gray: No, not through Cairo and Thebes, but we have got divisions in connection with the Houston, East & West Texas

4820 moving to points east of the river, or anywhere else that base on Thebes, Cairo or St. Louis.

Mr. Cowan: Where do you connect with the Rock Island?

Mr. Gray: We route our stuff by the Kansas City Southern north of Kansas City to all points located on the Rock Island Railway.

Mr. Cowan: That goes east?

Mr. Gray: No.

Mr. Cowan: How do you get east to the Mississippi River on these divisions?

Mr. Gray: In connection with the Missouri Pacific.

Mr. Cowan: Over the International & Great Northern?

Mr. Gray: Yes, sir.

Mr. Cowan: You get two cents on that?

Mr. Gray: Yes, sir.

Mr. Cowan: I thought you said you reached the Rock Island in some way and got two cent divisions from territory covered by them in Kansas?

Mr. Gray: I said in connection with Houston, East & West Texas and the Kansas City Southern through Kansas City, Mo., to all points north of Kansas City located on the Rock Island Railway.

4821 Examiner Burchmore: West of the Mississippi River?

Mr. Gray: West of the Mississippi River.

Mr. Cowan: Then you get four cents in that case?

Mr. Gray: We get four cents in that case to all points north of Kansas City to any points we have through rates on any railroad, for that matter.

Mr. Cowan: Going through the Mississippi River gateways to the east you get two cents per 100 pounds?

Mr. Gray: Yes, sir.

Mr. Cowan: Are you able to state with any degree of approximation what proportion of lumber going off your line moves to points east of the Mississippi?

Mr. Gray: Well, it is a very small proportion, I can hardly give you that, but it is a small proportion. There is not much stuff shipped east of the Mississippi.

Mr. Cowan: You naturally would ship where you would get the best divisions if you could?

Mr. Gray: No, we have nothing to do with these shipments, it is simply a matter of the customers or territory in which the lumber companies deal.

Mr. Cowan: Well, certainly, but the Ragleys are interested and officials in your railroad, and naturally would want their tim-
4822 ber sold in that territory where their railroad would get more divisions.

Mr. Gray: But I do not mind saying that the biggest proportion of the lumber goes to other territory; in fact I guess at present the biggest portion is going to Texas territory.

Mr. Cowan: What divisions do you get in Texas?

Mr. Gray: All the way from two to four cents, and five in one or two cases.

Mr. Cowan: Do you think as a railroad man that it is fair to your railroad to get only two cents out of an 18 or 16 cent rate to St. Louis and east when the Arkansas Southeastern Road gets five cents division out of the same rate?

Mr. Walter: Where do they get five cents?

Mr. Gray: I do not know anything about the Arkansas and Louisiana lines.

Mr. Cowan: Without naming any railroads, take those which get three and four cents or five cents, where you get two or three——

Mr. Gray: I do not know of any Texas lines that get that amount out of that rate to St. Louis and Cairo. There may however be, but if there is, I do not know it, and I have seen practically all their division sheets. But if you ask me the question as to whether I consider that a fair return on the investment I should state that
4823 I do not know that I do. I have however, agreed to that basis, but I have contemplated several times the cancelling of the rates, and that is a matter that is individually left up to me, there is no one ever asked me about it. I published that rate without the knowledge of any one else.

Mr. Hillyer: Just one or two more questions? Do you publish any tariffs which are filed with the Texas Railroad Commission, or are you a party to any tariffs which are published and filed with the Texas Railroad Commission?

Mr. Gray: We are a party to all Texas tariffs, yes, sir.

Mr. Hillyer: Do you publish any tariffs which are filed with the Interstate Commerce Commission?

Mr. Gray: We do not publish any interstate tariffs or any individual tariffs at all. We concur in tariffs by power of attorney with Mr. Leland of St. Louis, and other individual lines; we concur in several individual lines' tariffs.

Mr. Garwood: I understood you to say that you have joint through interstate rates on lumber with the Santa Fe in Texas?

Mr. Gray: Well, not divisions. That is a matter of course, in Texas—you understand we have got to handle lumber regardless of whether there is any agreed bases or not. We have no division sheets with them.

4824 Mr. Garwood: You have no divisions with them.

Mr. Gray: No; it is divided on our revenue pro rate.

Mr. Garwood: It is divided on a revenue pro rate?

Mr. Gray: Yes, sir, it is, if we should handle any with them, and where we do.

Mr. Garwood: What would be the basis of your pro rate, your local rate?

Mr. Gray: We would use our local rate against their local, yes.

Mr. Garwood: What is your local rate?

Mr. Gray: Well, it would vary from 5 to 7 and 8 cents according to the mileage hauled.

Mr. Garwood: Do you ship out lumber to Santa Fe points?

Mr. Gray: We do ship considerable lumber—the road does not, but the shippers on our line, of course, ship considerable lumber.

Mr. Garwood: I mean those who move off your line.

Mr. Gray: To Santa Fe territory in the Panhandle part of the state, yes, considerable.

Mr. Garwood: A gentleman here asks if you know who are the main shippers of that lumber?

Mr. Gray: I do.

Examiner Burchmore: I do not think that is important to

4825 go into here.

Mr. Garwood: I did not, but Mr. Coleman suggested the question. What division of the cotton rate did you say you got with the Santa Fe?

Mr. Gray: We get 20 cents on all cotton we turn over to the Santa Fe.

Mr. Garwood: That was a voluntary agreement upon the part of the two carriers as to the division of the rate?

Mr. Gray: Yes, sir.

Mr. Garwood: How do the divisions which you receive on interstate shipments of lumber compare with your locals up to Timpson or Henderson as the case may be, accordingly as they move out over the I. & G. N. or over the H. E. & W. T. or the Kansas City Southern.

Mr. Gray: Our local rates to our junction points are considerably higher than our division on through interstate business, of course.

Mr. Garwood: Your local rates are higher than your division of the through rate?

Mr. Gray: Always, yes, sir. Our minimum local is five cents per 100 pounds. We do not reach that on any interstate business at all. our proportion of the interstate rate does not reach that much.

4826 Mr. Garwood: You said as I remember that on the lumber that moves out via Henderson the I. & G. N. and thence over the Iron Mountain to Mississippi River Crossings you get a division of about two cents or of two cents?

Mr. Gray: Two cents, yes, sir.

Mr. Garwood: But on that which moved via the Houston, East & West Texas and the Kansas City Southern and thence over the Rock Island to points west you get four cents?

Mr. Gray: Yes, sir.

Mr. Garwood: Now it is a fact, is it not, that the through rates to the Mississippi points are lower than the total through rates to the western points you have mentioned, which you reach by the Rock Island?

Mr. Gray: Yes, sir, it is a fact, certainly; very much lower.

Mr. Garwood: I notice on your list of stockholders, just taking them at random, some ladies, a Mrs. Dobson who has 20 shares, which would be $2,000. I will ask you if you know it to be a fact that these ladies are large real estate owners round about the town of Henderson.

Mr. Gray: I do not know whether it is a fact or not. I am not acquainted with them at all.

4827 Mr. Garwood: Have you any information upon it?

Mr. Gray: I have no information to that effect, no, sir.

Mr. Garwood: I did not catch the total amount of stock that is owned by outside parties, citizens of Henderson and others who have no connection with the Ragley Lumber Company, the total amount of it.

Mr. Gray: 521 shares is the exact amount.

Mr. Garwood: 521 shares that are owned by outside parties?

Mr. Gray: Outside parties altogether.

Mr. Garwood: Those are largely citizens of Henderson. I noticed a man by the name of Wilson. He is a banker in Dallas, is he not?

Mr. Gray: That is my understanding, yes, sir.

Examiner Burchmore: He is one of the Ragley Lumber Company people, is he not?

Mr. Gray: He is one of the stockholders of the Ragley Lumber Company.

Examiner Burchmore: He is not one of those 521.

Mr. Garwood: Is Mr. Wilson a stockholder of the Ragley Lumber Company?

Mr. Gray: Yes, sir.

Mr. Garwood: Well, Mr. Hickey is a banker. Has he any

4828 interest in the Ragley Lumber Company?

Mr. Gray: No.

Mr. Garwood: I see Senator C. L. Brachfield. He is the old Senator from that district.

Mr. Gray: Yes, sir.

Mr. Garwood: He has five shares?

Mr. Gray: Yes, sir.

Mr. Garwood: Has he any interest in the Ragley Lumber Company?

Mr. Gray: No interest whatever.

Mr. Garwood: In other words, this stock is owned and generally distributed around through the town of Henderson.

Mr. Gray: Yes, sir.

Mr. Garwood: Was that coincident with the extension of your line?

Examiner Burchmore: He testified that it was.

Mr. Garwood: And was it for that purpose?

Mr. Gray: That is my information.

Mr. Garwood: The stock was subscribed for and paid in for the purpose of inducing the building of your road to Henderson?

Mr. Gray: Yes, sir.

Mr. Garwood: You have stated you connect with the Texas & Gulf also?

4829 Mr. Gray: Yes, sir.

Mr. Garwood: The Texas & Gulf is a Santa Fe property, is it not?

Mr. Gray: Yes, sir, that is my understanding.

Mr. Garwood: It was a lumber road built by a lumber man by the name of Griggsby, was it not?

Mr. Gray: I am not sure about it. I only know one party who was connected with the construction of that road in the first place. It was a lumber road as I understand it.

Mr. Garwood: They call it the Griggsby Branch now, the Santa Fe does?

Mr. Gray: I think that is correct.

Mr. Garwood: Well, is that a fact? I want to be certain about it.

Examiner Burchmore: Is what a fact?

Mr. Garwood: That that is now called the Griggsby Branch of the Santa Fe.

Mr. Gray: I do not know whether it is or not. It is called the Texas & Gulf.

Mr. Garwood: Generally speaking it is known as a lumber road which has recently been acquired by the Santa Fe interests?

Mr. Gray: It is probably so. I would not make that

4830 statement, I do not know.

Mr. Garwood: I suppose that will be admitted?

Mr. Coleman: No, you testify to it if you want to.

Mr. Garwood: I do not want to testify to it.

Examiner Burchmore: Well, the witness is not possessed of that knowledge.

Mr. Garwood: But is it generally understood that it was a local road up there?

Mr. Gray: Yes, sir, it was generally understood in the first place.

Mr. Garwood: Do you know that the Texas Commission has recently applied the single line rates to that road and the Santa Fe on the ground it is a common ownership?

Mr. Gray: I know the single line rate—that the Commission have prescribed that basis. I do not know on what ground, but presume it is on the ground of common ownership, though.

Mr. Garwood: That is under the rule adopted by the Railroad Commission of Texas, that where two different lines are under a common ownership that the single line rates apply?

Mr. Gray: Yes, sir.

Examiner Burchmore: The witness has already testified
4831 he understands it is a part of the Santa Fe System.

Mr. Hillyer: Will the Timpson & Henderson Railroad Company lose the Ragley Lumber Company as a shipper when that lumber that they own there now is cut out?

Mr. Gray: Yes, sir.

Mr. Hillyer: Inside of a year?

Mr. Gray: Probably, yes, sir.

Mr. Coleman: This rate on cotton you say you get a division with the Santa Fe on, that is state business, is it not?

Mr. Gray: It also covers export business, which I presume would be interstate business as I understand it.

Mr. Coleman: Have you delivered any of that for export by the Santa Fe?

Mr. Gray: We have delivered them considerable of that cotton. I do not know whether it has been exported or not as yet, but I presume it will be.

Mr. Coleman: In answer to a question of Mr. Hillyer, you stated the railroad had only withdrawn the lumber joint rates. You did not mean by that that the Santa Fe had joined in any rates, did you?

Mr. Gray: No.

Mr. Coleman: Except as you stated that one instance, in one of Leland's tariffs.

4832 Mr. Gray: That is all. That is the only case in which the Santa Fe do not carry exceptions.

Mr. Coleman: And you thought that did not apply, and you say our people thought it did.

Mr. Gray: Yes, sir.

Mr. Coleman: Don't you think it was put in there by mistake, it being a Leland publication, and containing all those different lines.

Mr. Gray: Well, I will tell you, to make a statement about that, I had thought that it was in the first place, but the general freight agent of that end of the Santa Fe down there requested me to leave the rate in and proposed a basis of divisions to me for that rate.

Mr. Coleman: The Texas Railroad Commission compels us to join in that cotton rate, do they not?

Mr. Gray: Well, that cotton rate is published in an interstate tariff of the Santa Fe, one of them is.

Mr. Hillyer: You say that cotton movement over the Santa Fe is governed by the tariff on file with the Interstate Commerce Commission?

Mr. Gray: Part of it, yes, sir.

Examiner Burchmore: Let us not pursue that question any further. I think he has admitted——

4833 Mr. Hillyer: He is trying to show that that is an intrastate movement, governed by the Texas Commission. As a matter of fact it is an export rate.

Examiner Burchmore: He has made his point in the record, and the tariff is on file with the Commission, if it is there.

Mr. Coleman: 3,000 bales of cotton originated at Henderson.

Mr. Gray: I did not make that statement. Something over 7,000 pounds.

Mr. Coleman: What road was that turned over to?

Mr. Gray: Some of it to the Santa Fe and some of it to the Houston, East & West Texas, and some to the International & Great Northern.

— Coleman: What junction point?

Mr. Gray: Timpson and Henderson.

Mr. Coleman: And the cotton at Pine Hill, where was that turned over?

Mr. Gray: It was handled through both junction points the same as the other. Some of it to the Santa Fe, some to the Houston, East & West Texas, and some to the International & Great Northern.

Mr. Coleman: Did the bulk of it go by any particular junction point, take Henderson, did the bulk of the Henderson cotton move by way of Timpson?

4834 Mr. Gray: It probably did, yes, sir.

Mr. Coleman: To secure the long haul on your road?

Mr. Gray: Well, we are not particular about the long haul.

Examiner Burchmore: It does not seem to me that is important to the issues in this case.

Mr. Coleman: I want to know what proportion of business moves between Ragley and Henderson.

Mr. Gray: It is probably divided—you mean which moves between Ragley and Henderson?

Mr. Coleman: Yes, the line which you constructed at the solicitation of the citizens of Henderson.

Mr. Gray: If I understand you, what you want is what proportion of the business has moved over the line with the exception of Ragley or what proportion Ragley gets. I presume that is what he is driving at. I do not know, but if that is the case I should say all of it but 27½ or 30 percent.

Mr. Coleman: Is on the new line?

Mr. Gray: Well, we handle some business at Timpson that moves over the new line, to get there of course.

Mr. Coleman: You built seven or eight miles of railroad between Ragley and Henderson?

Mr. Gray: Between Ragley and Henderson?

Mr. Coleman. Yes. How long has it been built?

4835 Mr. Gray: About 25 miles.

Mr. Coleman: The Timpson & Northwestern went to Ragley and then built to Henderson, a connection with the I. & G. N. at Henderson?

Mr. Gray: Yes, sir.

Mr. Coleman: How long is that road?

Mr. Gray: Henderson to Ragley is about 25 miles.

Mr. Coleman: What does the local business between Henderson and Ragley amount to?

Mr. Gray: I do not know, I have not those figures.

Mr. Coleman: Can you make it up, Henderson to Timpson, without including business originating at Henderson or originating at Timpson.

Mr. Gray: Could we operate without business originating at Timpson and Henderson, do you mean?

Examiner Burchmore: He wants to know how much traffic moves over each section of the road.

Mr. Gray: I cannot give it to you.

Mr. Coleman: In other words, the citizens of Henderson could get out on a railroad?

Mr. Gray: Yes.

Mr. Coleman: And the citizens of Timpson could get out on a railroad.

4836 Mr. Gray: Yes, sir.

Mr. Coleman: I want to know what business originates between Timpson and Henderson but excluding those two points.

Mr. Gray: We originated about 300 carloads of lumber at Long Branch and as I testified, some 700 bales of cotton, and at Pine Hill probably 144 cars of lumber and 3300 bales of cotton. Two or three cars of potatoes at Pine Hill, a car or two at Howeth Switch, and 25 to 30 carloads of lumber, besides the local merchandise stuff and a few carloads of implements. I do not know that I can give you any more.

Mr. Hillyer: There are a number of other points.

Examiner Burchmore: It is all in the record. Would it involve much labor to prepare a statement of the freight received at each of your stations along the line, and indicate how much freight from each station went through Henderson and how much through Timpson?

Mr. Gray: If it is of any importance I do not think it would. I would be glad to make it if the Examiner wants it, but I do not understand what would be the object in arriving at what went through Timpson and Henderson.

Mr. Hillyer: What Mr. Coleman has asked is a question the purpose of which is to bring out the extent of the business on the line of the Timpson and Henderson Road exclusive of Timp-

4837 son and Henderson, irrespective of which way it moved?

Mr. Coleman: That is right.

Examiner Burchmore: Can you tell us how much that traffic is?

Mr. Gray: Not any more than I have told him. I have told him about 300 cars of lumber, 700 bales of cotton, and probably 33 cars of cottonseed out of the two places——

Mr. Hillyer: Are you sure you have covered everything that originated at those points.

Mr. Gray: No, there are other little items. We handled some 10 carloads of live stock out of Pine Hill last year, and inbound

stuff, we probably handled 25 to 30 cars of grain and grain products for Pine Hill, inbound stuff.

Mr. Coleman: What else?

Mr. Gray: We have probably handled inbound 15 to 20 carloads of cottonseed products.

Mr. Coleman: None of that went to Timpson or Henderson?

Mr. Gray: No, to Pine Hill.

Mr. Coleman: On the outbound stuff, none originated at Timpson or Henderson at all, but in between.

Mr. Gray: This business I am describing, yes,

Mr. Coleman: Well, the outbound you described a minute ago, none of it originates at Timpson or Henderson?

4838 Mr. Gray: No.

Mr. Hillyer: If the Examiner will permit me, I will have Mr. Gray prepare a statement in detail, which will give that information and furnish Mr. Coleman a copy and ask that it be made a part of the record.

Examiner Burchmore: Very well.

Mr. Coleman: I want to know if you know the reason why the people of Henderson needed a railroad connecting Ragley with Henderson.

Mr. Gray: They did not need a railroad to connect Ragley with Henderson that I know of, but the business men there undoubtedly thought they needed another railroad to induce competition, which they did not have. But so far as connecting Ragley with Henderson, I don't suppose they wanted it for that particular purpose.

Mr. Coleman: In other words, Henderson could get out by way of Timpson Junction and the Houston, East & West Texas?

Mr. Gray: Yes, sir.

Mr. Walter: What is the contention, that if they can ship out over one line they should not have more than one line?

Examiner Burchmore: I presume it is as to the necessity for a new railroad.

4839 Mr. Hillyer: What has been the effect of rates on Henderson since this new road has been put in there?

Mr. Gray: Some rates have been reduced.

Mr. Coleman: Some of the heavier stockholders, that is the 25 share men, are big shippers at Henderson, are they not?

Mr. Gray: Some of them.

Mr. Coleman: Cotton shippers, are they not the big shareholders of the outside individuals?

Mr. Gray: Not altogether, not the largest cotton shippers, no.

(Witness excused.)

Examiner Burchmore: It is understood you will file a copy of this tracing as an exhibit later.

Mr. Hillyer: Yes.

Whereupon, at 1:00 P. M. a recess was taken until 2:00 P. M.

4840 After Recess.

2:00 P. M.

Gideon & North Island Railroad.

L. M. SARFF, was called as a witness, and having been duly sworn, testified as follows:

Mr. Walter: State your full name?
Mr. Sarff: Full or initials?
Mr. Walter: Initials will do.
Mr. Sarff: L. M. Sarff.
Mr. Walter: Where located?
Mr. Sarff: I am located—at the mill?
Mr. Walter: Yes, where is your mill?
Mr. Sarff: South of Gideon, on the Gideon & North Island.
Mr. Walter: What sort of a mill is it?
Mr. Sarff: It is a saw mill.
Mr. Walter: For hardwood?
Mr. Sarff: Yes, sir.
Mr. Walter: What is your shipping point?
Mr. Sarff: Sarff.
Mr. Walter: How far is Sarff from Gideon?
Mr. Sarff: About five miles.
4841 Mr. Walter: And at that point the Gideon & North Island connects with what line?
Mr. Sarff: Just an extension, just on that line running south.
Mr. Walter: How far is it from there to Malden?
Mr. Sarff: About 12 miles, I would judge.
Examiner Burchmore: From where to Malden?
Mr. Walter: Sarff: Sarff is a shipping point on the Gideon & North Island.
Mr. Sarff: Yes, sir.
Examiner Burchmore: From Sarff to Malden is 12 miles?
Mr. Sarff: I would think so.
Examiner Burchmore: I only ask it, because I happened to turn to Gideon & North Island Railroad I. C. C. No. 1, which in item 9 seems to show the distance from Sarff to Malden as 6 miles, the station 12 miles from Sarff being known as Glendale.
Mr. Walter: Do you know where Mumma is?
Mr. Sarff: Yes.
Mr. Walter: Is that your switch?
Mr. Sarff: Yes, sir, at the present time.
Mr. Walter: Where do you get your logs?
Mr. Sarff: We get them just east of Mumma.
4842 Mr. Walter: Off the railroad?
Mr. Sarff: Yes, sir. We haul them there.
Mr. Walter: By rail or by wagon?
Mr. Sarff: By wagon.
Mr. Walter: You do not have any logs hauled on the railroad, do you?
Mr. Sarff: No, sir.

Mr. Walter: What is your mill capacity?
Mr. Sarff: About 15,000 to 20,000 feet, a small mill.
Mr. Walter: What becomes of that lumber?
Mr. Sarff: It is shipped over the Gideon & North Island Railroad to the northern markets.
Mr. Walter: What rates do you compare with the rates on the Frisco?
Mr. Sarff: One cent higher, an 11 cent rate.
Mr. Walter: That is to St. Louis?
Mr. Sarff: Yes, sir, 11 cents to St. Louis.
Mr. Walter: What would be the effect on your business if the Gideon & North Island applies the local rate of 3½ cents for the movement from your mill out to the Frisco and then applies the Frisco rate from there on to St. Louis, of 10 cents. It would
4843 make your rate 13½ cents as against your present rate of 11 cents.
Mr. Sarff: Yes, sir.
Mr. Walter: What effect would that have?
Mr. Sarff: It would naturally hurt the business so much that I could hardly afford to operate, that is all.
Examiner Burchmore: Is the local rate 3½ cents?
Mr. Anderson: I think so.
Examiner Burchmore: For what distance?
Mr. Anderson: It is about four miles.
Examiner Burchmore: 4½ miles from where to where?
Mr. Anderson: To Gideon.
Examiner Burchmore: From Gideon to Sarff?
Mr. Anderson: Gideon to Mumma, that is the station at which he loads.
Examiner Burchmore: I see. You may proceed.
Mr. Walter: The Anderson Lumber Company, or the United States Cooperage Company have no interest in your mill?
Mr. Sarff: No.
Examiner Burchmore: That is your own individual operation?
Mr. Sarff: Yes, sir.
Mr. Walter: Do you know whether there are other shippers of hardwood located along the Gideon & North Island, who would be affected similar to yourself in case the joint rates are abol-
4844 ished?
Mr. Sarff: Yes, sir.
Mr. Walter: Just state who those people are.
Mr. Sarff: Well, there is a gentleman by the name of Creek, he really has not shipped any yet, but he is putting in a mill right now south of me.
Mr. Walter: That will be a hardwood mill?
Mr. Sarff: That will be a hardwood mill, yes, sir.
Mr. Walter: Who else?
Mr. Sarff: That is all on that line right below there.
Mr. Walter: How about Mr. Dunn?
Mr. Sarff: Well, he has a large tract of timber.
Mr. Walter: Where is he located?

Mr. Sarff: On the Gideon & North Island farther south.

Mr. Walter: Any shipments he would have would be on the Gideon & North Island?

Mr. Sarff: Yes, sir.

Mr. Walter: Are you acquainted with the soil throughout that territory?

Mr. Sarff: I surely am.

Mr. Walter: Can you state whether or not that is fertile soil and brings good crops?

4845 Mr. Sarff: Yes, sir.

Mr. Walter: The next thing after the timber is taken off is the development of the land for agriculture?

Mr. Sarff: Yes, sir.

Mr. Walter: What is your output, Mr. Sarff, for a year, about how many cars?

Mr. Sarff: Well, about 100.

Mr. Walter: About 100 cars?

Mr. Sarff: Yes, sir, 100 to 125.

Mr. Walter: Does most of that go to St. Louis or Kansas City or points outside of the State of Missouri?

Mr. Sarff: Yes, sir, almost exclusively to St. Louis or west of here, St. Louis or Kansas City. The delivery is in St. Louis, though.

Mr. Walter: That is all I want to ask this witness.

Mr. Cowan: I just want to ask one question. Suppose that at the time the rates were changed the trunk line rates from the junction point of the main line were reduced.

Mr. Sarff: I did not just understand the question.

Mr. Cowan: I say suppose the trunk line rates were reduced at the time the divisions were cancelled out.

Mr. Sarff: That is something I do not know anything about, of course.

4846 Mr. Cowan: It might be adjusted so it would not hurt you then.

Mr. Sarff: Of course, I have got to depend on the Gideon & North Island to get out. I could not haul it from my place to the Frisco at any point by wagon.

Mr. Cowan: If they make a through rate from your place over the Frisco something near what you get now, you would not be concerned in how they divided it, in how the two roads divided it?

Mr. Sarff: I do not quite catch the meaning yet.

Mr. Cowan: All right, that is all.

Examiner Burchmore: You are excused, but I shall ask you to return to the stand after the official of the road has testified.

N. V. TURNER, was called as a witness, and having been duly sworn, testified as follows:

Examiner Burchmore: What is your connection with the Gideon & North Island Railroad?

Mr. Turner: General Manager and Secretary.

Examiner Burchmore: With what trunk lines and at what points does this railroad connect?

4847 Mr. Turner: It connects with the Frisco at Gideon and at Malden.

Examiner Burchmore: And indirectly via the Frisco it reaches the Cotton Belt through Malden?

Mr. Turner: Yes.

Examiner Burchmore: What is your mileage?

Mr. Turner: 21 miles of main line.

Examiner Burchmore: What additional track?

Mr. Turner: We have about ten miles of spurs and switches.

Examiner Burchmore: What is the nature of those spurs and switches, are any of them logging roads?

Mr. Turner: They are spurs built out from the main line into the woods, so as to go out for logs.

Examiner Burchmore: Are there any private logging roads owned by shippers that connect with your line?

Mr. Turner: No, sir, not a foot.

Examiner Burchmore: Then as I understand it, the Gideon & North Island Railroad owns all the logging feeders?

Mr. Turner: Yes, sir.

Examiner Burchmore: That has not embarrassed you any, the fact that you own those feeders?

Mr. Turner: Sir?

Examiner Burchmore: You have not been embarrassed

4848 at all by owning and operating those logging roads that are feeders?

Mr. Turner: Well, at any time that we get the logs all cut out of one section, then we will move the feeder to some other point, wherever the timber is accessible.

Examiner Burchmore: You have had no difficulty of any kind as the result of owning those logging spurs?

Mr. Turner: Why, I could not——

Examiner Burchmore: What I mean is, you have heard the testimony in the last few days, and have heard a number of officials testify, as I understood their testimony, that their short line railroads do not own the logging spurs, because it was inconvenient and difficult to operate them.

Mr. Turner: I did not hear any testimony of that kind. I have only been in here two or three times, and did not happen to be in here when anything of that kind was sprung.

Examiner Burchmore: As a matter of fact the lumber companies located on your road do not own or operate any logging spurs?

Mr. Turner: No.

Examiner Burchmore: And have not in the past?

Mr. Turner: No, the railroad company takes care of all the spurs, switches and main line, and all.

Examiner Burchmore: Are you an officer of any lumber
4849 company?

Mr. Turner: I am an officer in the United States Cooperage & Handle Company.

Examiner Burchmore: Where are their mills located?

Mr. Turner: At Malden, or right close to Malden.

Mr. Walter: He has a map there which perhaps will aid you very greatly.

Examiner Burchmore: Do you desire to offer this in evidence?

Mr. Walter: Yes.

Examiner Burchmore: You cannot give us a small copy of it?

Mr. Walter: We can make one by hand if in no other way, which will serve to show the location.

Examiner Burchmore: Well, we will receive this in evidence.

(The map so offered and identified, was received in evidence and thereupon marked Gideon & North Island Exhibit No. 1, Witness Turner, received in evidence January 25, 1911, and is attached hereto.)

Mr. Walter: Explain the location?

Mr. Turner: Here is Malden (indicating), and right off south of Malden about three quarters of a mile from the main part of the city is the United States Cooperage Works. This road is built down through five points and Baxter and Sarff and Mumma, and here is where Mr. Sarff's mill is. Here is a creek where Mr.
4850 Creek is going to put in a mill, and here is Glendale, and on down to North Island, and our proposition is to go on down to Kennett, Kennett City.

Mr. Walter: What is the northern terminus of the road at the present time?

Mr. Turner: Malden.

Mr. Walter: And the southern terminus is North Island?

Mr. Turner: Yes, sir.

Mr. Walter: Where is Gideon?

Mr. Turner: Right here (indicating).

Mr. Walter: Gideon is half way between Malden and North Island?

Mr. Turner: Yes.

Mr. Walter: And are those private logging branches from five points to O'Neil?

Mr. Turner: No.

Mr. Walter: That is part of your regular road?

Mr. Turner: Yes.

Mr. Walter: And south from Baxter.

Mr Turner: We built that through there in order to get through a slough so the timber could be gotten from beyond the slough. It was impossible to haul it.

Mr. Walter: Is that permanent road?

4851 Mr. Turner: That part will be taken away. This is permanent road.

Mr. Walter: That is from Baxter to Gideon?

Mr. Turner: From Malden to Gideon.

Examiner Burchmore: A short distance south of Glendale I observe another branch extending in an easterly direction. Is that a logging spur or a permanent line?

Mr. Turner: That is just a spur.

Examiner Burchmore: The mill of the United States Cooperage Company is near Malden?

Mr. Turner: Yes, sir, just outside the corporate limits.

Examiner Burchmore: How close is it to the tracks of the Frisco?

Mr. Turner: Oh, it is several hundred feet, that is from a switch that they have.

Examiner Burchmore: Don't you have immediate access from your plant to the rails of the Frisco there at Malden without passing over the Gideon & North Island Railroad.

Mr. Turner: How is that now please?

Examiner Burchmore: At Malden, is it not possible for cars to move directly to your loading track from the Frisco without passing over the Gideon & North Island Railroad at all.

Mr. Turner: Providing we would haul the stuff out and
4852 load it on the tracks. We have private tracks all through our yards.

Examiner Burchmore: You would have to team it a short distance?

Mr. Turner: Yes, sir.

Examiner Burchmore: You have also a loading track right in your yard?

Mr Turner: Yes.

Examiner Burchmore: That connects with the Gideon & North Island?

Mr. Turner: No, the loading track is our own. The Gideon & North Island tracks are here, and we connect right at the edge of the yards with the Frisco Road.

Examiner Burchmore: Can you not give us a little pencil sketch of Malden showing your mill plant there with the buildings and the tracks that run through the mill plant at Malden?

Mr Turner: It can be gotten for you.

Mr. Walter: We will do that.

Examiner Burchmore: Just a little pencil sketch or ink sketch that will illustrate that.

Mr. Turner: But we deliver all of the cars down at their junction.

4853 Examiner Burchmore: You mean near Sarff?

Mr. Turner: No, there is a junction. This switch running down here, their main line comes down here (indicating), and instead of going straight north it makes a turn and goes away over here (indicating).

Examiner Burchmore: I understand there is a spur line that runs from the Frisco some distance from Malden right into your yard?

Mr. Turner: Yes, sir, right up to the yard.

Examiner Burchmore: And that is the interchange track between the two railroads?

Mr. Turner: Yes, sir.

Examiner Burchmore: Now you cannot get to the Cotton Belt from your railroad at Malden without passing for a fraction of a mile over the tracks of the Frisco?

Mr. Turner: Yes, it would be about three quarters of a mile, I should judge.

Examiner Burchmore: Are you personally interested in the Gideon-Anderson Lumber & Mercantile Company?

Mr. Turner: No, not a dollar.

Examiner Burchmore: Have you ever been?

Mr. Turner: Never have.

Examiner Burchmore: The United States Cooperage &
4854 Handle Company use hickory.

Mr. Turner: No.

Examiner Burchmore: What do they use?

Mr. Turner: They used to use ash, but they have cut out the handle proposition entirely now.

Examiner Burchmore: What do you understand they are making?

Mr. Turner: Staves and headings.

Examiner Burchmore: Does the Gideon-Anderson Lumber & Mercantile Company have a mill on your line?

Mr. Turner: Yes, sir.

Examiner Burchmore: What is the location of that mill?

Mr. Turner: Right close there at Gideon.

Examiner Burchmore: On your rails?

Mr. Turner: Yes.

Examiner Burchmore: Is it close to the rails of the Frisco at Gideon?

Mr. Turner: The Frisco Road runs right by their plant.

Examiner Burchmore: Would it be equally convenient to load a car on the Frisco at Gideon?

Mr. Turner: There are a few kinds of lumber that they could load on the Frisco switch.

Examiner Burchmore: What kinds, for example?

Mr. Turner: Well, take the green oak.

4855 Examiner Burchmore: Why could they not load other material?

Mr. Turner: Because they have to have places to let it dry, and the amount they cut there, they have to have space to dry it.

Examiner Burchmore: The Frisco runs through one part of the yard——

Mr. Turner: It does not through the yard, but it is at the side of the yard.

Examiner Burchmore: And the Gideon & North Island passes the other side?

Mr Turner: No, the Gideon & North Island has a spur up here. Here at Sarff is where the main line runs through. The Gideon &

North Island runs through Sarff, and there is a branch which runs up to where the mill is at Gideon, and we have switches all through the yard.

Examiner Burchmore: The Gideon & North Island has switch tracks running through the yards of the Gideon-Anderson Lumber & Mercantile Company.

Mr. Turner: Yes, sir.

Examiner Burchmore: Will you give us a little sketch of Gideon similar to that which you are to furnish at Malden?

Mr. Turner: We can.

4856 Examiner Burchmore: Are there any other mills on your line?

Mr. Turner: Yes, sir, the mill at Mumma owned by Mr. Sarff, and at Five Points, owned by Mr. Castleman.

Examiner Burchmore: Is he here?

Mr. Turner: Yes, sir.

Examiner Burchmore: Does he propose to testify?

Mr. Walter: He will be called.

Examiner Burchmore: Mr. Creek's mill is not open yet?

Mr. Turner: No, and at the present time the O'Neil mills have just got cut out.

Examiner Burchmore: Will you take up your lines between Five Points and O'Neil?

Mr. Turner: No, we will take up our line from this point here (indicating).

Mr. Walter: What point?

Mr. Turner: Where the line branched off from the spur at West Norris to where the O'Neil Mills were.

Examiner Burchmore: That will be taken up?

Mr. Turner: That will be taken up.

Examiner Burchmore: Why will you leave the balance of that line down?

Mr. Turner: On account that there is plenty of timber left
4857 in here, and we have been requested by numbers of people to put a line in there because they want to market their timber.

Examiner Burchmore: Has the Anderson Company or the United States Cooperage Company no timber down there?

Mr. Turner: No. Excuse me, we have a very small amount out here away down in Section 8, but we do not intend to run a line to this, quite, but it will be right up in through here (indicating).

Examiner Burchmore: Will you be cutting that within the next few years?

Mr. Turner: Yes.

Examiner Burchmore: And handling the logs by team?

Mr. Turner: We will be handling the logs by team up to this track, because it is impossible for a person to log in that land over a mile. If you do, you are going to lose all your profits. It has been tried too often.

Examiner Burchmore: Who are the other officers of your railroad?

Mr. Turner: Mr. Anderson.

Examiner Burchmore: What is his office?

Mr. Turner: He is President, W. P. Anderson. M. S. Anderson is the Treasurer, and Mr. Menntemyer.

4858 Examiner Burchmore: You are the general manager?

Mr. Turner: Yes, sir.

Examiner Burchmore: Is Mr. W. P. Anderson or M. S. Anderson interested in the United States Cooperage Company?

Mr. Turner: I believe that Mr. Anderson has got a small amount of stock in the company.

Examiner Burchmore: Is Mr. Menntemyer a stockholder?

Mr. Turner: No, sir.

Examiner Burchmore: Is he a stockholder of the railroad, Mr. Menntemyer?

Mr. Turner: No.

Examiner Burchmore: He is simply in fact an employé of the road?

Mr Turner: Yes, sir.

Examiner Burchmore: Are the United States Cooperage & Handle people generally speaking, stockholders of this railroad at the present time?

Mr. Turner: Two.

Examiner Burchmore: Who are they and what is the extent of their holdings in the railroad?

Mr. Turner: I have got 300 shares and my son has got 100.

Examiner Burchmore: What is your son's position?

Mr. Turner: He has no position as an officer of the road,

4859 any more than he is an agent for the road over at Malden.

Examiner Burchmore: What proportion of the stock of the United States Cooperage & Handle Company do you and your son own?

Mr. Turner: I think it is 175 shares that I own, and my son owns ten.

Examiner Burchmore: What is the total number of shares in that corporation?

Mr. Turner: 500.

Examiner Burchmore: Who are the other stockholders?

Mr. Turner: You have pretty near got me; there are 18 I know of.

Examiner Burchmore: Are they interested in any way in this railroad?

Mr. Turner: No.

Examiner Burchmore: Not directly or indirectly?

Mr. Turner: Not directly or indirectly.

Examiner Burchmore: Any other railroads interested in this railroad?

Mr. Turner: No.

Examiner Burchmore: The President of this railroad, W. P. Anderson, is he a stockholder in the Gideon-Anderson Lumber & Mercantile Company?

4860 Mr. Turner: Yes, sir.

Examiner Burchmore: Is he President of that company?

Mr. Turner: I understand he is president of that company.

Examiner Burchmore: How many shares has he in the railroad?

Mr. Turner: 600.

Examiner Burchmore: How many shares has Mr. M. S. Anderson in your railroad?

Mr. Turner: 100.

Examiner Burchmore: What is the total number of shares in the railroad?

Mr. Turner: 1200.

Examiner Burchmore: We have accounted for 1100 apparently, 600 and 100 owned by the officers, and 300 by yourself and 100 by your son. Who owns the other shares?

Mr. Turner: Mr. M. V. Mumma.

Examiner Burchmore: Does Mr. Mumma own stock in the Gideon-Anderson Lumber & Mercantile Company?

Mr. Turner: I think he does.

Examiner Burchmore: Do you know whether it is a substantial interest, a large interest?

Mr. Turner: No, it is not a large interest.

Examiner Burchmore: But his holding in that company is in some proportion to the holding he has in this railroad?

4861 Mr. Turner: I do not think that it is.

Examiner Burchmore: Then the entire stock of this railroad seems to be owned by persons who are stockholders in the United States Cooperage & Handle Company, the Gideon-Anderson Lumber & Mercantile Company, and by a gentleman who owns a mill down at Mumma; I say these shippers practically control the railroad.

Mr. Turner: Well, Mr. Sarff does not own a dollar in the road.

Examiner Burchmore: Well, he is one shipper who does not own anything in the road?

Mr. Turner: Yes, sir.

Examiner Burchmore: But I say these three shippers own the railroad through the ownership of capital stock?

Mr. Turner: I don't quite get your point. These three shippers?

Examiner Burchmore: Yes, the Gideon-Anderson Lumber & Mercantile Company, the United States Cooperage Company and Mr. Mumma own the railroad?

Mr. Turner: Mr. Mumma is not a shipper.

Examiner Burchmore: I thought he had a mill at Mumma?

Mr. Turner: No, that is Mr. Sarff.

4862 Examiner Burchmore: Who is Mr. Mumma?

Mr. Turner: He is a man that runs the mercantile store there at Gideon.

Examiner Burchmore: He is a stockholder in the Gideon-Anderson Lumber & Mercantile Company?

Mr. Turner: Yes, he is a stockholder in the Gideon-Anderson Company. How much I don't know.

Examiner Burchmore: My question is, the stockholders of the Gideon-Anderson Lumber & Mercantile Company, together with you and your son, own all the stock in this railroad?

Mr. Turner: Yes, sir, but there are people who own stock in the

Gideon-Anderson Company, and also in the United States Cooperage Company who have not anything to do with the railroad.

Mr. Walter: And they are material stockholders?

Mr. Turner: Yes.

Mr. Walter: Own a material amount in the stores?

Mr. Turner: Yes, sir. Take it in the United States Cooperage Company, they own two thirds of the stock of the United States Cooperage Company.

Examiner Burchmore: Does Mr. Mumma own any timber in this territory?

Mr. Turner: I do not think that he does, not to my
4863 knowledge.

Examiner Burchmore: The store that he owns there at Gideon is a company store, is it not?

Mr. Turner: Well, he does not own it, he rents it for the company, is my understanding of it.

Examiner Burchmore: When was this Gideon & North Island Road incorporated as a railroad?

Mr. Turner: On the 30th day of April, 1908, is when we got our papers.

Examiner Burchmore: When was the mill at Malden open for business?

Mr. Turner: About 4 years ago.

Examiner Burchmore: When was the mill at Gideon opened?

Mr. Turner: Well, I think that that has been opened about eight or nine years.

Examiner Burchmore: When was the construction begun on the railroad which is now the Gideon & North Island, extending from Malden south say to Five Points?

Mr. Turner: From Malden south?

Examiner Burchmore: Yes.

Mr. Turner: It was commenced before we commenced operating, as we had to get the first log over that road to commence operations.

Examiner Burchmore: What year was that?

4864 Mr. Turner: It was 1906.

Examiner Burchmore: How much of a railroad was built there in the beginning?

Mr. Turner: I think about four miles.

Examiner Burchmore: Down about to Five Points?

Mr. Turner: Well, it was beyond Five Points. We went on east.

Examiner Burchmore: Over that same branch that is down in there?

Mr. Turner: Yes, sir, about to here (indicating).

Examiner Burchmore: Out to the extreme point to which the railroad now runs in Section 24?

Mr. Turner: Yes, sir.

Examiner Burchmore: That railroad then constructed has remained in place to the present time?

Mr. Turner: Yes, sir.

Examiner Burchmore: Any renewals of the rails or changes in the rails?

Mr. Turner: Only just when one would break we would replace it.

Examiner Burchmore: What was the next part of this railroad which was built?

Mr. Turner: It started south.

4865 Examiner Burchmore: From Five Points south?

Mr. Turner: Yes.

Examiner Burchmore: When was it extended?

Mr. Turner: About three years ago, I believe.

Examiner Burchmore: From Five Points to where?

Mr. Turner: It went from Five Points to Baxter.

Examiner Burchmore: When was it built from Baxter to——

Mr. Turner: The next year it went on through.

Examiner Burchmore: On to Gideon?

Mr. Turner: Yes.

Examiner Burchmore: When was the first part of this line built out of Gideon?

Mr. Turner: Well, that was before I went down in there, but I made hunting trips through that country every once in awhile, and I think it was about two years prior, I think in 1904.

Examiner Burchmore: Was that built in order to enable the Gideon Mill to get logs from out in this country?

Mr. Turner: Yes, sir, I would suppose so.

Examiner Burchmore: How much of this railroad was in existence and operation when the Gideon & North Island was incorporated?

4866 Mr. Turner: 12 miles.

Examiner Burchmore: That means from Malden to Gideon?

Mr. Turner: No, it is south of Gideon about down to here (indicating).

Examiner Burchmore: Down to Mumma?

Mr. Turner: Yes.

Examiner Burchmore: Then the line was in existence from Malden through Sarff and Baxter to Mumma?

Mr. Turner: Right close to here (indicating).

Examiner Burchmore: And since that time you have extended the line from Glendale on south to North Island?

Mr. Turner: Yes, that is the case. If my memory serves me right, we called it Glendale right just below Creek, as it was nothing but a vast spot of timber.

Examiner Burchmore: In timber swamps?

Mr. Turner: Yes, sir.

Examiner Burchmore: This railroad was incorporated in 1908 as a common carrier railroad under the laws of Missouri?

Mr. Turner: Yes, sir.

Examiner Burchmore: And what amount of capital stock was issued at that time?

Mr. Turner: $120,000 was the amount that we——

Examiner Burchmore: That was the full amount issued, at that time?

4867 Mr. Turner: Yes, sir.

Examiner Burchmore: What consideration was paid for that stock?

Mr. Turner (producing papers): It was $43,000.
Examiner Burchmore: Please state the nature of that document which you are now placing in evidence?
Mr. Turner: The nature of it?
Examiner Burchmore: Yes, sir, what is it?
Mr. Turner: We made an arrangement with the two companies to take over their railroad, as there was several dissenting people in the company on account of the maintenance of the road.
Examiner Burchmore: I don't quite understand that. When did you make this arrangement?
Mr. Turner: Well, it was some time prior to April 30th, 1908.
Examiner Burchmore: Who made the arrangement? You said "we."
Mr. Turner: Well, we did at our meeting.
Examiner Burchmore: You mean the Gideon & North Island Railroad Company?
Mr. Turner: At the time that we had our meeting of the United States Cooperage Company we brought the matter up on ac-
4868 count of dissenting people in the cooperage company.
Examiner Burchmore: What were these people dissenting about?
Mr. Turner: Well, in regard to the maintenance or keeping up of the road. They were wondering if we could not dispose of it.
Examiner Burchmore: Why did you want to dispose of it or why did they want to dispose of it?
Mr. Turner: Well, I did not want to dispose of it.
Examiner Burchmore: What does that agreement provide for, or what is it?
Mr. Turner: This agreement is that we have leased the road for a ten year lease, and at the end of the ten years we are to take the road and pay for all of it, and we are to pay four per cent per annum on this amount.
Examiner Burchmore: Four per cent per annum plus this amount to whom?
Mr. Turner: To the United States Cooper- Company.
Examiner Burchmore: What are you paying in the meantime for the use of the road?
Mr. Turner: We are paying them four per cent.
Examiner Burchmore: Simply the interest on the value of the road each year?
4869 Mr. Walter: That contract calls for maintenance on your part?
Mr. Turner: Yes.
Mr. Walter: And in addition four per cent on the value of the road when you take it over?
Mr. Turner: Yes, sir.
Examiner Burchmore: Do you have to buy the road at the end of ten years, or is it an option?
Mr. Turner: If we do not it goes back to them.
Examiner Burchmore: It is simply an option on the part of the Gideon & North Island to purchase the road at the end of ten years?

Mr. Turner: We are not compelled to, but we are putting our earnings in the road, and if we would not, we would lose our efforts.

Mr. Walter: And all your improvements?

Mr. Turner: Yes, sir, and all our improvements.

(The two papers so offered and identified, were received in evidence and thereupon marked Gideon & North Island Exhibits Nos. 2 and 3, Witness Turner, received in evidence January 25, 1911, and are attached hereto.)

Examiner Burchmore: What is the life of the United States Cooperage Company's timber?

4870 Mr. Turner: All they have got will expire the 1st of next January.

Examiner Burchmore: Are they purchasing more timber?

Mr. Turner: No.

Examiner Burchmore: What will they do, go out of business?

Mr. Turner: No, sir.

Examiner Burchmore: Do you know what they are going to do by the 1st of January?

Mr. Turner: Yes, sir, I think I do.

Examiner Burchmore: Do you care to state?

Mr. Turner: Yes, it does not make any difference.

Examiner Burchmore: Well, I ask you.

Mr. Turner: At the present time they have found out that that soil is better for farming than it is for holding it in wood, and everybody now is ready to dispose of their timber, and it is for sale now all over the country, and put it into farms, and there are thousands of acres being deadened of the virgin timber standing right there, and they are going after it and are not going to wait.

Examiner Burchmore: Is anybody else buying timber down there besides the United States Cooperage Company and the Gideon-Anderson Lumber Company?

Mr. Turner: O'Neil is buying.

4871 Examiner Burchmore: Your contract with the United States Cooperage Company, I see names $18,000 as the purchase price of the railroad then leased to your company?

Mr. Turner: Yes, sir.

Examiner Burchmore: That document is marked Exhibit No. 2. Now Exhibit No. 3 seems to be an agreement between your company and the O'Neil Lumber Company.

Mr. Turner: Is that the O'Neil agreement? Excuse me, this is the one. That is a different one.

Examiner Burchmore: A different sort of contract?

Mr. Turner: Yes, a different sort of contract.

Examiner Burchmore: We will mark this Exhibit No. 4, it being agreement between the Gideon & North Island Railroad Company and the Gideon-Anderson Lumber & Mercantile Company.

(The paper so offered and identified, was received in evidence and thereupon marked Gideon & North Island Exhibit No. 4, Witness Turner, received in evidence January 25, 1911, and is attached hereto.)

Examiner Burchmore: Under this contract with the Gideon-Anderson Company marked Exhibit No. 4, you will pay $25,000 in the event that you purchase the railroad tracks, and so forth, leased under that agreement. How much railroad did
4872 you acquire from the Gideon-Anderson Lumber & Mercantile Company under this contract?

Mr. Turner: There was about six miles, I should judge, of main line.

Examiner Burchmore: Running between the county line separating New Madrid and Pemiscot County?

Turner: It did not go quite that far.

Examiner Burchmore: Well, the point then known as Glendale?

Mr. Turner: Yes, sir.

Examiner Burchmore: Northward to Gideon?

Mr. Turner: Yes, sir.

Examiner Burchmore: And no further?

Mr. Turner: I think that there was a little piece of track built north of the road at that time.

Examiner Burchmore: And under the contract or lease with the United States Cooperage Company, you acquired your railroad extending from or near Malden down close——

Mr. Turner: From near Malden down close to Baxter.

Examiner Burchmore: And the line from Baxter connecting up with the road which you acquired from the Gideon-Anderson Company had not yet been constructed?

Mr. Turner: No.

Examiner Burchmore: What did it cost you to construct
4873 that connecting link?

Mr. Turner: Taking it through there I think it cost about $3,000 a mile.

Examiner Burchmore: That was about three miles?

Mr. Turner: It would be about three miles.

Examiner Burchmore: When did you build from Glendale to North Island?

Mr. Turner: From Glendale to North Island, that has been put in there last year.

Examiner Burchmore: When did you open it for operation?

Mr. Turner: It was some time last year.

Examiner Burchmore: Do you know what that extension cost you?

Mr. Turner: There was one mile that cost us considerable.

Examiner Burchmore: Do you know what it cost as a whole from Glendale to North Island?

Mr. Turner: About $4,000 a mile.

Examiner Burchmore: And it is about six or seven miles?

Mr. Turner: Yes.

Examiner Burchmore: Have you done any grading or made any surveys for the proposed line shown on this blue print from North Island to Kennett?

4874 Mr. Turner: We have not.

Examiner Burchmore: What about the proposed extension of the line east from Sarff to Portageville?

Mr. Turner: There is a road through there.

Examiner Burchmore: Do you mean a wagon road?

Mr. Turner: It was a road during the war; there is a grade through there now.

Examiner Burchmore: You said some of the stockholders of the United States Cooperage Company disapproved of the continuance of this road as a part of the cooperage business, as I understood you?

Mr. Turner: Yes, sir.

Examiner Burchmore: Was there any dissent among the stockholders of the Gideon-Anderson Company with respect to the operation of their railroad down there?

Mr. Turner: Not that I know of.

Examiner Burchmore: They were all agreed that it was a wise thing to operate that railroad?

Mr. Turner: I did not take that matter up with the Gideon people.

Examiner Burchmore: One more thing about these two leases. In those two leases the railroad agrees, does it not, to build all

4875 temporary spurs into virgin timber not to exceed two miles, and not more than one spur on each side of the track to each section, when necessary to reach timber?

Mr. Turner: Yes, sir.

Examiner Burchmore: It also agrees to load the logs for the manufacturing companies out there in the woods and to transport them to Malden or Gideon respectively?

Mr. Turner: Yes, sir; we do that for them or anyone else that is along the line.

Examiner Burchmore: I notice you seem to have a couple of log loaders among your railroad equipment.

Mr. Turner: We have.

Examiner Burchmore: Do you load logs for anyone else as a matter of fact?

Mr. Turner: Yes, sir, we have done it and are still doing it.

Examiner Burchmore: Why did the Gideon & North Island Railroad Company lease this track from the cooperage company instead of purchasing it outright?

Mr. Turner: Well, it would have taken more money, and we did not care about——

Examiner Burchmore: Is that the only reason?

Mr. Turner: Well, that was the reason with me.

Examiner Burchmore: Does the same reason apply to the

4876 Gideon-Anderson Lumber & Mercantile Company's tracks?

(No reply.)

Examiner Burchmore: I mean you did not purchase those tracks, but leased them for the same reason.

Mr. Turner: To be sure.

Examiner Burchmore: What did you do with the $120,000 that you realized on the sale of your capital stock?

Mr. Turner: We have been building lines and purchasing cars and engines. We have purchased three locomotives since we have taken over this.

Examiner Burchmore: From whom?

Mr. Turner: We purchased two of them from the Davenport Locomotive Works and one from Hicks in Chicago.

Examiner Burchmore: Do you recall what you paid for them?

Mr. Turner: We paid $3600 for one, and I think it was about $5400 for one, and $5,000 for the other, for the one from Hicks.

Examiner Burchmore: How long have you owned these locomotives?

Mr. Turner: We have owned two of them for close on to two years. One of them went through the City of St. Louis only—well, it passed through here on Sunday and went out on Monday.

Examiner Burchmore: Do you own any freight cars?

4877 Mr. Turner: We have 12 flat cars, I believe.

Examiner Burchmore: Used for hauling logs?

Mr. Turner: Used for hauling logs or whatever we want to use them for. Take it for bolts, for instance.

Examiner Burchmore: Those are all the cars you own?

Mr. Turner: No, we own 70 logging cars.

Examiner Burchmore: You say we own 70 logging cars.

Mr. Turner: The railroad.

Examiner Burchmore: How long have they owned those cars?

Mr. Turner: Ever since we bought the road—well, not all of them, because we have purchased quite a number of the cars. I think there were only about 40 in the equipment at the time we got the road.

Examiner Burchmore: I thought you only leased the road. You did not buy it.

Mr. Turner: Well, since we leased it.

Examiner Burchmore: You do not own these cars, as a matter of fact, you lease them, do you not?

Mr. Turner: No, we bought them outright.

Examiner Burchmore: They are covered by these two agreements you have offered in evidence?

Mr. Turner: They are. That is the reason I said we surely

4878 expected to carry our agreement on through and not stop when the ten years is out.

Examiner Burchmore: This lease, Exhibit No. 2, says "this lease covers all the railroad track now built and belonging to the said first party, also all cars, engines and other railroad property and equipment of said first party, meaning the United States Cooperage Company." and it is a lease and not a bill of sale.

Mr. Turner: Just a little bit further than that is there not a statement that then when we pay the balance of it it is ours?

Examiner Burchmore: Well, but at the end of the ten years you can turn them back and not pay anything for them. Is not that a fact?

Mr. Turner: Well, I suppose a person could, but we do not intend to do that.

Examiner Burchmore: Well, you do not own the railroad running from Malden to Baxter; you lease it, do you not?

Mr. Turner: It is under a lease at the present time, but the only reason we did that was so we did not need to take and put up the money.

Examiner Burchmore: Is it not true you also lease the cars instead of owning them, in the same way?

4879 Mr. Turner: No, sir, any more than those that were on hand when we took it over.

Examiner Burchmore: How many were on hand?

Mr. Turner: I think about forty.

Examiner Burchmore: How many locomotives?

Mr. Turner: There were five.

Examiner Burchmore: Have you disposed of any of them?

Mr. Turner: We have disposed of all of them.

Examiner Burchmore: Sold them?

Mr. Turner: Yes, sir.

Examiner Burchmore: To whom?

Mr. Turner: We sold one of them to the Western Tie & Timber Company——

Examiner Burchmore: What did you do with the money you got from that sale?

Mr. Turner: We put it right into the railroad funds and went ahead and——

Examiner Burchmore: Did you give the Western Tie & Timber Company a bill of sale with it?

(No reply.)

Examiner Burchmore: The question is, it looked to me by

4880 reading the contract, that you had leased the locomotives instead of buying them, and I wanted to ascertain if that was not a fact.

(No reply.)

Mr. Walter: You replaced that locomotive with others, did you not?

Mr. Turner: Yes, sir.

Mr. Walter: New ones?

Mr. Turner: Yes, sir.

Mr. Walter: The old ones were only good for junk?

Mr. Turner: Yes, sir. One was the Hostler engine, and the other was a Shay geared engine, and had been worn out for 20 years.

Examiner Burchmore: Who owns the rails this railroad was built with?

Mr. Turner: I think there was about five miles of the rails that was at the Gideon part of it which belonged to the Frisco and still belongs to the Frisco, but the most of that rail was out on spurs.

Examiner Burchmore: Reverting to this——

Mr. Turner: The most of the rail that is in the main track is new rail.

Examiner Burchmore: Reverting to Exhibit No. 4, which is

your contract with the Gideon-Anderson Lumber & Mercan-
4881 tile Company, that contract provides that the Gideon & North Island Railroad shall assume four contracts given to Frisco on certain dates. Is it not a fact that those four contracts with the Frisco cover the steel that is in the tracks from Gideon southward, covered by this contract?

Mr. Turner: Not all of it.

Examiner Burchmore: How much of it?

Mr. Turner: I think there is about five miles all told that we got from them. There is quite a good deal of that in the spurs.

Examiner Burchmore: Can you furnish the Commission copies of those four contracts?

Mr. Turner: Yes.

Examiner Burchmore: We would like to have them. Suppose at the end of ten years you should make up your mind not to buy this railroad, but turn it back to the Gideon-Anderson Company, I assume the Frisco would take back their steel?

Mr. Turner: Their steel is only leased.

Examiner Burchmore: Then if the steel went back to the Frisco what would the Gideon-Anderson Company get?

Mr. Turner: There is about 31 miles of steel all told.

Examiner Burchmore: Did the Gideon & North Island
4882 Railroad Company purchase the steel rail used for new construction?

Mr. Turner: Yes.

Examiner Burchmore: From whom did they purchase it?

Mr. Turner: From the Illinois Steel Company.

Examiner Burchmore: Now I ask you what property does the capital stock of this company represent? You say you have $120,000 of capital stock. What does it cover or where is it?

Mr. Turner: We have got it in our right of way, in cars, engines, steel, ties, and whatever it takes to make and maintain a road.

Examiner Burchmore: You mean you have it in right of way and in equipment, steel, and so forth, outside of that part of the line which is leased?

(No reply.)

Examiner Burchmore: The substantial portion of this railroad is leased from the Gideon-Anderson Company and the United States Cooperage Company, and the balance of the road you own outright without any lease whatever?

Mr. Turner: Yes, sir.

Examiner Burchmore: Is the balance of the road which you own worth $120,000?

Mr. Turner: We have not paid in fully the $120,000, but
4883 I would think that it is.

Examiner Burchmore: Have you a copy of your last annual report to the Interstate Commerce Commission?

Mr. Turner: Yes, sir.

(Annual report produced.)

Examiner Burchmore: Your annual report to the Commission for the year ending June 30th, 1910, apparently shows, at least this

copy of it shows, that the Gideon & North Island Railroad Company owns three miles extending from Glendale to North Island, and one mile extending from Five Points to O'Neil, making four miles of road owned; that it operates——

Mr. Turner: How is that?

Examiner Burchmore: Making four miles of road owned.

Mr. Walter: The Commission has been asked to allow an amendment. That was a mistake, and the Commission granted the permission and it was corrected accordingly, as I am advised.

Examiner Burchmore: This copy indicates that you also reported that the United States Cooperage & Handle Company had seven miles of railroad extending from Malden to Sarff, which was operated under lease by the Gideon & North Island, and that the Gideon-Anderson Lumber & Mercantile Company had ten miles extending from Sarff to Glendale which was similarly operated by this
4884 railroad. Now counsel states a correction has been made in those figures by your company, and the permission of the Interstate Commerce Commission.

Mr. Walter: That is right.

Mr. Turner: We have 21 miles of main line, or had at the time this report was made.

Examiner Burchmore: What do you manufacture at Malden?

Mr. Turner: Staves and heading.

Examiner Burchmore: Do you have joint rates on staves and heading to interstate destination over the Frisco?

Mr. Turner: Yes, sir.

Examiner Burchmore: Have you any over the Cotton Belt?

Mr. Turner: No.

Examiner Burchmore: Have you any contract with the Frisco Railroad respecting divisions?

Mr. Turner: No.

Examiner Burchmore: The only contracts your company has with the Frisco are those contracts referred to in the document which you have filed which relate to steel rail?

Mr. Turner: That is all.

Examiner Burchmore: What is the rate from your mill at Malden to interstate destinations on staves and heading, the same as from the Frisco stations?

4885 Mr. Turner: One cent above.

Examiner Burchmore: One cent higher?

Mr. Turner: Yes, sir.

Examiner Burchmore: What are your divisions?

Mr. Turner: Three cents.

Examiner Burchmore: To all territory?

Mr. Turner: No, that is adding the one cent.

Examiner Burchmore: You mean three cents plus one cent?

Mr. Turner: No, it is two cents plus one cent, and to the Memphis gateway it is one cent plus one cent.

Examiner Burchmore: That same rate on staves and headings applies from all stations on your line?

Mr. Turner: Yes, sir, with the exception of O'Neil, but there is no mill there any more.

Examiner Burchmore: But from all shipping stations on your line the rates to interstate destinations on staves and headings in connection with the Frisco are the same as the Frisco's individual rates plus one cent?

Mr. Turner: Yes, sir.

Examiner Burchmore: And your divisions are two cents and three cents?

Mr. Turner: Yes:

4886 Examiner Burchmore: Including the one cent?

Mr. Turner: Including the one cent. There is an interline of two cents on the gateways of Thebes, St. Louis and Kansas City, and one cent on the gateway of Memphis.

Examiner Burchmore: What is manufactured at Gideon?

Mr. Turner: Well now, there are several manufacturers there.

Examiner Burchmore: I mean in the Gideon-Anderson Company's plant?

Mr. Turner: Well, they make lumber.

Examiner Burchmore: What sort, hardwood lumber?

Mr. Turner: Yes, sir.

Examiner Burchmore: What are their rates?

Mr. Turner: Just the same.

Examiner Burchmore: One cent above the Frisco?

Mr. Turner: Yes.

Examiner Burchmore: What are your divisions on their lumber?

Mr. Turner: Just the same.

Examiner Burchmore: The same as on staves and heading?

Mr. Turner: Yes.

Examiner Burchmore: Do you have any joint class rates in connection with the Frisco?

4887 Mr. Turner: Just on forest products.

Examiner Burchmore: No other joint rates?

Mr. Turner: No.

Examiner Burchmore: Do you publish and file with the Commission your local rates of freight?

Mr. Turner: Yes, sir.

Examiner Burchmore: On all commodities?

Mr. Turner: Yes.

Examiner Burchmore: And what points does your company have agents?

Mr. Turner: At Malden and Gideon.

Examiner Burchmore: Does the agent at Malden work for any other corporation or firm besides your railroad?

Mr. Turner: At the present time he does.

Examiner Burchmore: For whom?

Mr. Turner: The United States Cooperage Company.

Examiner Burchmore: Has there even been a time when he has not?

Mr. Turner: Yes, sir.

Examiner Burchmore: What about the agent at Gideon?

Mr. Turner: We have an agent at Gideon.

Examiner Burchmore: Is he also employed by the Frisco System?

4888 Mr. Turner: We have made arrangements with the agent of the Frisco to make out our bills of lading.

Examiner Burchmore: And your waybills?

Mr. Turner: And waybills.

Examiner Burchmore: Where does the mill at Malden obtain its material, its logs?

Mr. Turner: Out in the woods, close to Five Points, and of course we get them at different places along the line.

Examiner Burchmore: And the Gideon & North Island Railroad hauls those logs to the mill?

Mr. Turner: Yes, sir.

Examiner Burchmore: It loads the logs on the trains?

Mr. Turner: Yes, sir.

Examiner Burchmore: What does it charge for hauling the logs to the mill?

Mr. Turner: One and one-half cents per 100 pounds for loading and hauling.

Examiner Burchmore: That is paid to the Gideon & North Island by the United States Cooperage Company?

Mr. Turner: Yes, sir, or anyone else.

Examiner Burchmore: Do they get any part of that back?

Mr Turner: No.

Examiner Burchmore: Then the stuff is manufactured at

4889 Malden, and when you are ready to ship to an interstate destination, how do you get an empty car to the factory for loading?

Mr. Turner: The Frisco sets it in on the line there, and we go with our locomotives and put it wherever it is wanted.

Examiner Burchmore: How far does your locomotive move it?

Mr. Turner: Well, we move it—there are three loading spurs in the yard, and I judge it is between a quarter and half a mile.

Examiner Burchmore: Then when you load the cars your engine moves over to the Frisco interchange track?

Mr. Turner: Yes.

Examiner Burchmore: Your agent makes out a bill of lading and the waybill?

Mr. Turner: Yes.

Examiner Burchmore: Are you familiar with the practice down at Gideon?

Mr. Turner: Somewhat.

Examiner Burchmore: Is it similar down there?

Mr. Turner: Yes, sir.

Examiner Burchmore: As a matter of fact down at Gideon it very frequently happens, does it not, that the lumber is loaded directly on to the tracks of the Frisco?

4890 Mr. Turner: I don't remember now if there are two tracks north of the mill, or three. If there are three—I mean if there are only two tracks there, there is some of it loaded on the

Frisco track, but if there are three tracks it is on the Gideon & North Island track.

Mr. Walter: There is an occasional infrequent loading of the car on the Frisco rails?

Mr. Turner: There is one place there that I have seen them load some stuff on.

Examiner Burchmore: Where is Sarff?

Mr. Turner: It is east of Gideon.

Examiner Burchmore: How far from Gideon?

Mr. Turner: It is only a short way, about three quarters of a mile.

Examiner Burchmore: How far is it from Malden?

Mr. Turner: Eight miles.

Examiner Burchmore: Sarff was formerly located at the point where the line of the railroad crosses Sections 6 and 7, the line separating 6 and 7?

Mr. Turner: Yes, sir, there are several houses there, but we took up the switch there.

Examiner Burchmore: And moved it down to its present location at South Gideon?

4891 Mr. Turner: Yes.

Examiner Burchmore: When did you do that?

Mr. Turner: We took up the spur there some time last summer.

Mr. Walter: In connection with the statement I made one moment ago I desire to add that none of these cars that are loaded on the Frisco tracks are spotted by the Frisco engine. The cars are handled by the Gideon & North Island engine. Is not that right, Mr. Turner?

Mr. Turner: Yes, sir.

Examiner Burchmore: Do you carry any passengers?

Mr. Turner: No.

Examiner Burchmore: Run your trains on a regular schedule?

Mr. Turner: We aim to leave at a regular time each day.

Examiner Burchmore: How many trains a day each way?

Mr. Turner: Two each way.

Examiner Burchmore: All the way from Malden to North Island?

Mr. Turner: Well, at any point that we happen to pick up the logs.

Examiner Burchmore: It runs over the entire length of your line?

Mr. Turner: Yes, sir.

4892 Examiner Burchmore: What were your earnings and expenses last year?

Mr. Turner: The total earnings were $52,284.03. In regard to the expense, I have not got that.

Mr. Walter: The annual report will show that, I suppose.

Mr. Turner: Yes, sir.

Examiner Burchmore: Have you been making money?

Mr. Turner: Yes, sir, we have a little.

Examiner Burchmore: Paying any dividends?

Mr. Turner: No.

Examiner Burchmore: Any surplus?

Mr. Turner: We have put it right back into the road.

Examiner Burchmore: What was the character of your tonnage last year and from whom did you get it?

Mr. Turner: I have not got this thrown into tonnage, but just into pounds.

Examiner Burchmore: The annual report shows you had 101,778 tons of forest products and 1150 tons of merchandise and 80 tons of miscellaneous freight, making a total of 103,017 tons of outbound freight with no products of agriculture and no products of animals and no products of mines and no inbound freight. The forest products of course included the movement of logs from
4893 one point to another on your line, I presume.

Mr. Turner: Yes, sir.

Examiner Burchmore: The separate statement shows 27,263 tons of lumber carried in carload quantities. I have read those figures from this report. I will simply ask you if they are correct, if I have read them correctly they are correct?

Mr. Turner: Well, I rather think to the best of my knowledge they are. We had a party to go over the roads and fill out the book. I did not do it myself.

Examiner Burchmore: The figures as reported to the Interstate Commerce Commission are in your opinion correct?

Mr. Turner: Yes, sir.

Examiner Burchmore: And you did not handle any farm produce for the farmers down in there?

Mr. Turner: Not yet. It is coming, though. In two or three years we can talk to you quite differently, because there are thousands of acres being deadened and made ready for the plow.

Examiner Burchmore: How much of that forest product was furnished to your company for transportation by persons who had no interest or relation to the Gideon-Anderson Lumber &
4894 Mercantile Company or the United States Cooperage & Handle Company?

Mr. Turner: I will try to answer that question in just a moment. From the O'Neil Lumber Company we handled 5,830,000 pounds.

Examiner Burchmore: How much?

Mr. Turner: 5,830,000 pounds. It is not thrown into tons.

Examiner Burchmore: What percentage is that of your total traffic?

Mr. Turner: Of the outbound?

Examiner Burchmore: Well, go ahead with your statement.

Mr. Turner: I did not figure it out. The Gideon Cooperage Company furnished 6,736,000 pounds. Hutley & Buckley 178,000 pounds. The number of local consignments of merchandise was 2,826, that was the number of shipments.

Mr. Walter: The number of waybills?

Mr. Turner: Waybills and the number of pounds was 2,299,000.

Examiner Burchmore: What was that, logs?

Mr. Turner: No, feed and groceries and stuff that was shipped to different people along the line.

Examiner Burchmore: That includes the forage for the mill people down there, does it not?

4895 Mr. Turner: For the mill people?

Examiner Burchmore: For the logging people.

Mr. Turner: Well, I suppose so, yes, but the logging is nearly all let out in contracts and other people——

Examiner Burchmore: What is your relation to the O'Neil Lumber Company?

Mr. Turner: Nothing at all whatever.

Examiner Burchmore: I mean your personal relation?

Mr. Turner: Not at all.

Examiner Burchmore: What about the relation of the Gideon & North Island to the O'Neil Company?

Mr. Turner: Nothing at all.

Examiner Burchmore: What is that contract which is in evidence as Exhibit No. 3?

Mr. Turner: Well, that contract was in reference to—there is a different rate in existence between the companies—they own a mill or two mills which was a mile from our track, and they wanted us to haul their product, and the contract will show for itself.

Examiner Burchmore: What do you charge the O'Neil Company for handling their stuff?

Mr. Turner: Four cents above the Malden rates.

Examiner Burchmore: How far were they located from

4896 your main line?

Mr. Turner: They were located a little over a mile.

Examiner Burchmore: This contract as I glance at it hastily seems to indicate that the O'Neil Lumber Company before locating where they did, or before opening their operations, asked your railroad if you would build across to reach their place——

Mr. Turner: No, sir, that was not the idea.

Examiner Burchmore: What was the idea?

Mr. Turner: They were in their location and had their stuff cut and on the sticks.

Examiner Burchmore: And they had been teaming it across to the railroad?

Mr. Turner: Yes, sir.

Examiner Burchmore: And they asked you to build a railroad so as to reach them?

Mr. Turner: Yes.

Examiner Burchmore: And you said you would upon certain conditions?

Mr. Turner: We told them if they would build a road in there we would take their product and handle it and at the same rate we were charging everybody else.

4897 Examiner Burchmore: And that rate is how much?

Mr. Turner: One cent above the Malden rate.

Examiner Burchmore: I thought you said you charged them four cents above the Malden rate?

Mr. Turner: We did, but we asked them to connect with our road, and instead of their doing that they made the proposition that

they would pay four cents above the Malden rate providing we would furnish the iron and steel and lay the track.

Examiner Burchmore: Then what you actually did under this contract, and that is what this contract provides for, was to build across to their mill and take their traffic at four cents above the Malden rate.

Mr. Turner: Yes, sir, and we furnished the steel and had to go to the Illinois Steel Company and buy it.

Examiner Burchmore: Is that rate published with the Commission?

Mr. Turner: Yes, sir.

Examiner Burchmore: What is the name of their mill point?

Mr. Turner: O'Neil.

Examiner Burchmore: That is the track you are about to take up?

1898 Mr. Turner: Yes, sir.

Examiner Burchmore: You have built several spur tracks extending from your main line to different tracts of timber owned by the United States Cooperage Company, have you not?

Mr. Turner: Yes, sir.

Examiner Burchmore: What is the length of those spurs you have built, any thing up to two miles?

Mr. Turner: We have not built any that long.

Examiner Burchmore: Under that contract you agreed to build them up to two miles?

Mr. Turner: Yes.

Examiner Burchmore: Under that contract what do you charge them for going in there?

Mr. Turner: We get one and one-half cents to Malden and this one cent above the Malden rate out.

Examiner Burchmore: Then I understand you only charge them two and a half cents above the Malden rate, whereas you charge the O'Neil people four cents above the Malden rate.

Mr. Turner: I do not get it. Two cents above.

Examiner Burchmore: Two and one-half cents above?

Mr. Turner: Here is the reason of that. They furnish dry product which weighs less than one-half. We do not get the tonnage.

1899 Examiner Burchmore: Any further explanation you wish to make about that?

Mr. Turner: No, sir. Green material will weigh 10,000 pounds to the 1000 feet of lumber.

Mr. Walter: And one and one-half cents applies on logs?

Mr. Turner: Yes, sir.

Mr. Walter: And this four cents applied on lumber?

Mr. Turner: Yes sir.

Examiner Burchmore: But you haul the logs?

Mr. Turner: Yes, sir, we get the tonnage.

Examiner Burchmore: You ought to be paid for what you haul?

Mr. Turner: We do.

Examiner Burchmore: And not what becomes of it afterward?

Mr. Turner: We do.

Mr. Walter: Is it not pretty generally true that there is a less rate on logs for the same weight than on lumber?

Mr. Turner: We find that with all railroads, and I notice that the Cotton Belt will haul 50 miles at two cents in the log, but for the lumber they will charge about eight cents.

Examiner Burchmore: Take a shipment which originates at O'Neil and moves out to some place to the north or south through Memphis, how much money do you make on that shipment?

1900 Mr. Turner: 30,000 pounds to the car would make us about $18.00 a car to move it out there.

Examiner Burchmore: You charge the man at O'Neil four cents over the Malden rate?

Mr. Turner: Yes, sir.

Examiner Burchmore: And then get two or three cents more out of the Frisco?

Mr. Turner: We get two cents providing it goes north. If it goes south we only get one.

Examiner Burchmore: Then you get either five cents or six cents out of that shipment from O'Neil?

Mr. Turner: Yes, sir, but it cost us better than $3,000 to put that piece in, and as soon as the O'Neil shipments were made that was all for that track.

Examiner Burchmore: Does it not cost pretty nearly as much to build your private spurs into the woods of the cooperage company for the same distance?

Mr. Turner: Well, we have got so we do not have to buy any more rail, we just take it up and move it. We had to buy the rail for this.

Examiner Burchmore: Your revenues for the year 1910 seem to be, as shown in this report, $52,283.13, and your expenses

1901 $24,680.85, making your net revenue $27,602.46. Those figures seem to be approximately correct as you recall them?

Mr. Turner: I guess they are about right, but I do not think we took off everything for depreciation.

Examiner Burchmore: Don't you charge depreciation?

Mr. Turner: I think we left that out.

Mr. Walter: Was the interest charge included in that?

Mr. Turner: I do not think it was.

Examiner Burchmore: What was the interest charge?

Mr. Turner: Four per cent.

Examiner Burchmore: The interest charge was $1720 apparently.

Mr. Turner: Yes.

Examiner Burchmore: Leaving $25,882.46 after payment of interest.

Mr. Turner: But the depreciation was not taken off of that.

Examiner Burchmore: How much is your surplus?

(No reply.)

Examiner Burchmore: I want to know about this correction in the figures to your mileage given in the annual report on page 13. What is incorrect about that statement as given in this copy here?

You said you had corrected the figures with the Interstate Commerce Commission.

Mr. Walter: Mr. Anderson can tell you about that.

4902 Examiner Burchmore: Do you desire to ask some questions, Mr. Walter?

Mr. Walter: Just a few. Let us see if you can get at this lease. In 1908 you made a lease with the United States Cooperage Company for their track then built?

Mr. Turner: Yes.

Examiner Burchmore: And with the Gideon-Anderson Company of their track then built?

Mr. Turner: Yes.

Mr. Walter: And the valuations of those two tracks respectively were $18,000 and $25,000?

Mr. Turner: $18,000 and $25,000.

Mr. Walter: Making $43,000?

Mr. Turner: Yes, sir.

Mr. Walter: The consideration for that lease was four per cent and the construction of spurs to their timber holdings not to exceed two miles?

Mr. Turner: That was the idea.

Mr. Walter: You were to keep up these tracks in such condition as to be properly operated?

Mr. Turner: Yes.

Mr. Walter: At the end of ten years you could either surrender all the improvements you had put on the property, turn

4903 over the railroad to these two companies, or else pay them the $43,000?

Mr. Turner: That is less this per cent.

Mr. Walter: Forty per cent, or ten years at four per cent each year?

Mr. Turner: Yes, sir. This was supposed to be part of the purchase price, providing we kept it.

Mr. Walter: So there is no probability that at the end of ten years either the United States Cooperage Company or the Gideon-Anderson Company will receive any railroad?

Mr. Turner: They do not intend to so far as I have got anything to say about it.

Examiner Burchmore: Would it be against their interest to receive it, do you know?

Mr. Turner: I don't suppose it would: It would be against our interest.

Mr. Walter: You do not propose to let them have the railroad?

Mr. Turner: No.

Mr. Walter: You will keep your part of the contract by paying them the 60 per cent of the $43,000?

Mr. Turner: Yes.

Mr. Walter: And when you said you did not carry passen-

4904 gers you meant you did not carry passengers for hire?

Mr. Turner: That is the idea.

Mr. Walter: If you will look at your tonnage for the O'Neil Com-

pany, Gideon-Anderson Company, and United States Cooperage Company, and others, that shows the total interline tonnage at 74,582,000 pounds or 37,291 tons.

Mr. Turner: I guess I did not notice that.

Mr. Walter: I have reduced it to tons, and want you to look at it. How many cars does that show?

Mr. Turner: This I have is what has been shipped since July 1st, 1910 up to the 21st of December.

Mr. Walter: Have you not also got the 1910 tonnage?

Mr. Turner: That is what I was looking for awhile ago, but I did not notice it.

Mr. Walter: You have it there (handing paper). Do you recognize this statement?

Mr. Turner: Yes, sir. I saw it a little while ago, but I cannot find it.

Mr. Walter: Just use that. That shows a total interline tonnage of 37,291 tons, reducing the pounds to tons.

Mr. Turner: I see.

Mr. Walter: And the total tonnage shipped by others than the United States Cooperage Company and Gideon-Anderson
4905 Company amount to some 13,452 tons.

Mr. Turner: Yes.

Mr. Walter: At the same time there was handled by the railroad company of miscellaneous merchandise and so forth some 2,299,000 pounds, or 1149 tons. Is that right?

Mr. Turner: That is the idea, that is correct.

Examiner Burchmore: Who shipped this 13,452 tons of freight which was shipped by other people?

Mr. Walter: I can call it off to you, or give this memorandum to him.

Examiner Burchmore: Just tell us.

Mr. Walter: O'Neil Lumber Company, Gideon Cooperage Company, U. S. Cooperage & Handle Company, and Hutley & Buckley.

Examiner Burchmore: How much of each?

Mr. Walter: 2,915 tons for the O'Neil Lumber Company, 3,363 tons for the Gideon Cooperage Company, 7,079 tons for the United States Cooperage Company, and 89 tons for the Hutley & Buckley. That was for the year ending June 30th, 1910. Now have you similar tonnage for the last six months?

Mr. Turner: Yes, sir.

Mr. Walter: Let us have that.

4906 Mr. Turner: Well, I haven't the tonnage, but just the number of cars that are moved.

Mr. Walter: Give us the number of cars?

Mr. Turner: There has been 50 cars of ties and lumber moved by L. M. Sarff; 38 cars of lumber by C. W. Frick, and the Gideon Handle Company 24 carloads of handles; Gideon Cooperage Company 55 cars of staves; Griffin Lumber Company 4 cars of piling; 98 cars of staves and heading of the United States Cooperage & Handle Company.

Mr. Walter: Making a total of how many?

Mr. Turner: I did not run it over.

Examiner Burchmore: How about the Gideon-Anderson Lumber & Mercantile Company?

Mr. Turner: I have not got that down.

Mr. Walter: 269 cars for these outside parties. Have you the data showing the Gideon-Anderson shipments in cars?

Mr. Turner: No, he has not put that down.

Examiner Burchmore: Do you call the United States Cooperage Company an outside shipper?

Mr. Turner: There are a good many people in the United States Cooperage Company that have not got any interest at all whatever in the railroad company.

Examiner Burchmore: But you control the cooperage
4907 company, do you not?

Mr. Turner: No, sir.

Examiner Burchmore: Who does control it?

Mr. Turner: The majority of the stockholders.

Examiner Burchmore: Don't you own a majority of the stock?

Mr. Turner: I own a good chunk of it, but do not control it.

Mr. Walter: Do you own a majority?

Mr. Turner: No, about one-third.

Examiner Burchmore: Do not other stockholders in the railroad own enough to make your holdings more than half?

Mr. Turner: No, myself and my son are all that have any interest in the railroad. I own 175 shares and he owns 10, and there are 500 shares to the whole company.

Examiner Burchmore: In what company?

Mr. Turner: U. S. Cooperage & Handle Company.

Mr. Walter: Now in that territory all through there drainage systems have been constructed?

Mr. Turner: They have, eight in number.

Mr. Walter: That opens all that land so it can be used for agricultural purposes?

Mr. Turner: Yes, sir.

Mr. Walter: And you have moved comparatively a small
4908 amount of agricultural products the last year?

Mr. Turner: There has not been but a very little bit.

Mr. Walter: Small shipments of corn?

Mr. Turner: They are just commencing to raise agricultural products, because when we went in there four years ago it was all solid timber.

Mr. Walter: Do you know anything about the Pine Bluff Lumber Company?

Mr. Turner: Pine Bluff?

Mr. Walter: Yes.

Mr. Turner: No.

Mr. Walter: The people who own the land down by Mora, do they have any shipments going out over your line which you will probably move in the near future?

Mr. Turner: When they commence to work it, I do not think they have commenced on that timber yet.

Mr. Walker: They have quite a large amount?
Mr. Turner: Yes, sir.
Mr. Walker: It will all have to come out over your line?
Mr. Turner: Yes.
Mr. Walker: Have you any trackage rights over the Frisco?
Mr. Turner: We have.
4909 Mr. Walker: From what point, over what road?
Mr. Turner: From Gideon to Wardell.
Mr. Walker: How far is that?
Mr. Turner: About 43 miles.
Mr. Walker: You have a contract for the use of the track?
Mr. Turner: Yes.
Mr. Walker: What does that contract call for?
Mr. Turner: It calls for the movement of trains.
Mr. Walker: What compensation?
Mr. Turner: For 50 cents per thousand feet.
Mr. Walker: What do you move over that leased trackage or track-age right?
Mr. Turner: Logs and bolts.
Mr. Walker: Into your mill?
Mr. Turner: Yes, sir.
Examiner Burchmore: Where is Wardell?
Mr. Turner: Wardell is——
Examiner Burchmore: Beyond Tallapoosa?
Mr. Turner: It is the other route, you have to go on down to Kennett and from Kennett to Pascola, and Pascola to Wardell.
Mr. Walker: That would be east to Pascola and north to
4910 Wardell?
Mr. Turner: Yes, sir.
Mr. Walker: You do not seem to run into Kennett?
Mr. Turner: The Frisco has a road which runs down from Gibson and panhandles off through here to Kennett, and then the road from Kennett runs over here to Pascola, right about in here, and Wardell is about back in here (indicating).
Examiner Burchmore: Wardell is south of the county line between New Madrid and Pemiscot Counties, just east of the township line that crosses near Tallapoosa. Now I thought I asked you whether you had any other contracts with the Frisco and understood you to say that you did not. You forgot this one.
Mr. Turner: I did.
Examiner Burchmore: We would like a copy of that contract.
Mr. Walker: We will furnish the contract.
Mr. Walker: Do you know who W. J. Frick is?
Mr. Turner: Yes, sir.
Mr. Walker: What does he do and where is he located?
Mr. Turner: He has a mill at Baxter.
Mr. Walker: Is that on your line?
Mr. Turner: Yes.
Mr. Walker: He ships out over your line?
Mr. Turner: Yes, sir, he shipped out 38 cars since July.

4911 Mr. Walter: Let me ask you whether you furnish facilities on your line of railroad to everybody that offers freight and on equal terms where they are located equally?

Mr. Turner: Just exactly the same.

Mr. Walter: And you hold yourselves out and are equipped to perform common carrier service?

Mr. Turner: Yes, sir. We have loaded logs for Professor Pierce, a professor of schools of Malden who owns a part of Section 24, and hauled them to Mr. Castleman's mill and shipped the lumber out then over the road.

Mr. Walter: That is all.

Examiner Burchmore: Have you any questions, Judge Cowan?

Mr. Cowan: No questions.

Mr. Coleman: Has there been any recent change in the stockholders of the cooperage company?

Mr. Turner: There has been one change as I know of.

Mr. Coleman: What was that?

Mr. Turner: A man by the name of Miller bought 20 shares—no, 10 shares of a man by the name of Sigafoose.

Mr. Coleman: Has there been any recent change in the railway?

Mr. Turner: No, there has been no change made that af-
4912 fects the road at all. It is since the formation of the company.

Mr. Walter: Now just about five minutes for Mr. Castleman.

Examiner Burchmore: I would like Mr. Anderson to take the stand a moment.

(Witness excused.)

W. P. ANDERSON, was called as a witness, and having been duly sworn, testified as follows:

Examiner Burchmore: There are just two things I wanted to ask you. I am curious to know about the mistake made on page 13 of the annual report.

Mr. Anderson: Yes. That report was made out by a man who we supposed was a railroad man, and was overlooked by myself, and I immediately wrote to the Commission asking them to return the book, and they said they would substitute a leaf to be put in there and it would be done immediately.

Examiner Burchmore: What was the mistake on page 13?

Mr. Anderson: That it was 12 miles and he made it 17 miles. It was 12 miles we had built, and that was leased by the Gideon & North Island Railroad. There are two concerns.

4913 Examiner Burchmore: How is that divided between the two?

Mr. Anderson: Eight and five, five from the United States Cooperage Company and eight miles from the Gideon-Anderson Company.

Mr. Walter: You mean seven and five?

Mr. Anderson: Yes, twelve all together.

Examiner Burchmore: But that is the only mistake in this report.

Mr. Anderson: Yes, sir, all that I know of.

Examiner Burchmore: The report is accurate——

Mr. Anderson: Well, it is the first one we have ever made out.

Examiner Burchmore: I understand, but the report on page 13 is accurate in showing that only four miles are owned outright by this corporation.

Mr. Anderson: It is not correct so far as the realty is concerned, and that is where the mistake is.

Mr. Walter: How many miles do you own now aside from the twelve?

Mr. Anderson: We own 21 miles of main line and 12 miles of side track.

Examiner Burchmore: Explain how you figure that?

Mr. Anderson: Well, we have 21 miles of main track.

4914 Examiner Burchmore: In fee simple?

Mr. Anderson: Except this we have leased.

Examiner Burchmore: Has there been any change in the figures as shown in your annual report as corrected, has there been any change since the date of your annual report?

Mr. Anderson: We are building right along.

Mr. Walter: What is that date?

Examiner Burchmore: June 30th.

Mr. Anderson: We have built some side track and spurs.

Examiner Burchmore: It shows four miles owned. How much have you added to the line owned?

Mr. Anderson: Well, four miles is not correct, I told you. We have built a couple of miles since the report was made.

Examiner Burchmore: It makes about six or eight miles?

Mr. Anderson: No, it makes more than six or eight miles. It makes 12 miles, and 9 is 21 miles. We have built since the incorporation——

Examiner Burchmore: Suppose you were filling out a new report, at what figure would you make it?

Mr. Anderson: I would make that 12 miles.

Examiner Burchmore: Make what 12 miles, the figures now shown as what?

4915 Mr. Anderson: That was owned formerly by the Gideon-Anderson Company and the United States Cooperage Company, 12 miles. The balance of 21 miles would be the amount built since the incorporation, which would be 9 miles.

Mr. Walter: Has that leaf actually been corrected and sent forward?

Mr. Anderson: No, but it will be immediately. We have got permission to do it.

Examiner Burchmore: What is your total mileage at the present time of main line?

Mr. Anderson: I suppose about 22 miles. Most of our track we have built since that report has been mentioned.

Examiner Burchmore: Then you have only built one mile of main line since the report was made?

Mr. Anderson: I am just estimating it.

Examiner Burchmore: And you have not changed the title in any way to the miles of track which were originally owned by the cooperage company or the Gideon-Anderson Company?

Mr. Anderson: No.

Examiner Burchmore: I think that is understood then. You are familiar with the conditions and methods of transportation of the plant at Gideon?

Mr. Anderson: Just fairly well, yes, sir.

4916 Examiner Burchmore: You heard Mr. Turner describe the method of billing and moving shipments at Malden. I ask you whether the same method is pursued at Gideon?

Mr. Anderson: Well, I think it is something similar, only we have a man there that does nothing else. His compensation comes from the railroad only.

Examiner Burchmore: With what frequency does it happen that the Frisco Railroad takes a loaded car away from the factory at Gideon without assistance from the Gideon & North Island Railroad or its employees.

Mr. Anderson: I suppose it has happened a few times, but it is very seldom, and it is not the intention, and the handles that are shipped away from the handle company that are loaded have not been billed from Sarff but from Gideon.

Examiner Burchmore: How long have you been billing from Gideon instead of Sarff?

Mr. Anderson: We have only been billing from Gideon only what comes from the handle factory occasionally.

Examiner Burchmore: Was it not formerly your practice to bill shipments which were manufactured in the mill at Gideon as originating at Sarff?

Mr. Anderson: Yes, sir.

Examiner Burchmore: I mean the Gideon-Anderson mills.

4917 Mr. Anderson: Yes, sir.

Examiner Burchmore: When did you discontinue the practice?

Mr. Anderson: You understand our lumber yards are at Sarff and occasionally there is a green car of lumber shipped out from the mill, that is loaded and we set the car on the Frisco tracks.

Examiner Burchmore: You say your lumber yard is at Sarff?

Mr. Anderson: Yes, sir.

Examiner Burchmore: But your mill is at Gideon?

Mr. Anderson: Yes.

Examiner Burchmore: And what is the distance from Gideon to Sarff?

Mr. Anderson: Three-quarters of a mile.

Examiner Burchmore: Then you haul your lumber for three-quarters of a mile from the mill over to the yard?

Mr. Anderson: Yes, sir.

Examiner Burchmore: By wagon?

Mr. Anderson: No, by cars, standard flat cars.

Examiner Burchmore: And it is loaded on the Gideon & North Island at Sarff for interstate transportation?

Mr. Anderson: Yes.

Examiner Burchmore: There is a handle company there at Gideon?

4918 Mr. Anderson: Yes.

Examiner Burchmore: What rate do they pay?

Mr. Anderson: On the handles loaded right out on the main track they get a bill from Gideon.

Examiner Burchmore: And the Frisco charges its local rate?

Mr. Anderson: Yes, sir. We do not get any division on that at all.

Examiner Burchmore: What do you get for hauling the logs into the mill?

Mr. Anderson: The same price, one and a half cents.

Examiner Burchmore: Is there not a milling in transit rate down there?

Mr. Anderson: No.

Examiner Burchmore: Then on the O'Neil stuff and on the logs that are handled for the United States Cooperage Company and on the logs and lumber handled for the Gideon & Anderson Company, I understand you get a revenue on the logs into the mill of one and one-half cents?

Mr. Anderson: Yes.

Examiner Burchmore: And you subsequently get your full division on the outbound tonnage?

Mr. Anderson: Yes.

Examiner Burchmore: But on stuff handled for the Gid-

4919 eon Handle Company you seem to get one and one-half cents in and nothing out?

Mr. Anderson: Well, that was due to being loaded directly at the shed or track. We had no yards any place else, and it was loaded directly out on the track and we had not any right to charge anything.

Mr. Walter: Did you include the O'Neil Company as paying a revenue on logs?

Mr. Anderson: I did, but that is a mistake.

Mr. Walter: Yes.

Examiner Burchmore: How many loading tracks has the Frisco, at or near Gideon?

Mr. Anderson: Well, they own the passing track there, which is the only one they have used for years. They really have some rail laid down in our yard that belongs to them, but they do not use it and have not for a long time.

Examiner Burchmore: Where do they pick up a loaded car, loaded by the Gideon Handle Company?

Mr. Anderson: We put it on their passing track.

Examiner Burchmore: I thought you did not handle their product?

Mr. Anderson: Well, that is loaded on their passing track and taken out.

4920 Examiner Burchmore: Where are the cars loaded in the case of the Gideon-Anderson Company's shipments?

Mr. Anderson: They are loaded out at Sarff at this yard, except I said there was an occasional car of green lumber that has passed through in that way.

Examiner Burchmore: We want a map of Gideon so as to know how the thing lies?

Mr. Walter: We will give it to you, and also a map of Malden.

Examiner Burchmore: Is the Gideon Cooperage Company related in any way to the Gideon-Anderson Company?

Mr. Anderson: Yes, I have some stock in it.

Examiner Burchmore: What is the total stock of the Gideon Cooperage Company?

Mr. Anderson: 60 shares.

Examiner Burchmore: How much do you think you own?

Mr. Anderson: I think I own about 40 per cent.

Examiner Burchmore: Who owns the balance?

Mr. Anderson: Well, a man by the name of Phillips and Mr. Menntemyer.

Examiner Burchmore: How much does Mr. Menntemyer own in the Gideon-Anderson Company?

4921 Mr. Anderson: He owns one share, and nothing in the railroad.

Examiner Burchmore: However, he is auditor of the railroad, is he not?

Mr. Anderson: Yes, sir.

Examiner Burchmore: Is there anyone else who owns stock in the Gideon Cooperage Company, who also owns stock in this railroad?

Mr. Anderson: Yes, sir, my brother owns a little stock, I think it is one or two shares, in the cooperage company.

Examiner Burchmore: I think we would like to have a list of the stockholders of the Gideon Cooperage Company, the Gideon Handle Company and the United States Cooperage Company and the Gideon-Anderson Lumber & Mercantile Company, and the railroad, as of date today.

Mr. Walter: So far as they are of record today?

Examiner Burchmore: As of record today, but if the record is not correct, you are at liberty to indicate it in a foot-note.

Mr. Walter: We will do that, but if somebody has sold any and we do not know it, we cannot indicate it.

Examiner Burchmore: I think that is all, unless you have some statement you wish to make.

4922 Mr. Anderson: Yes. It has not been brought out very distinctly as to what we have down below on our line, and I want to say that we have a country that is developing into farms very fast. It was ditched about two years ago, and the ditch marks are not on there.

Examiner Burchmore: Along towards North Island?

Mr. Anderson: Yes, sir. There is a proposition that is costing between $5,000,000 and $14,000,000, and that is just being pushed now to completion, and part of it has been already completed. We have one concern down there, the Bluff City Lumber Company,

that claims they have 10,000 carloads of logs to come over our tracks. Beside that, Mr. Dunne has at least 8,000 cars, and we have to condemn land and go down through there, and there is another tract there which belongs to a Minneapolis concern, which will probably have 25,000 cars to ship over this road of virgin timber, and we have no interest in it whatever.

Examiner Burchmore: Have you any interest in that other company you just mentioned?

Mr. Anderson: No, sir, neither one of them.

Examiner Burchmore: No relation between the two companies?

Mr. Anderson: No.

Mr. Walter: These two concerns own both the land and
4923 the timber?

Mr. Anderson: Mostly, but not entirely.

Examiner Burchmore: Was there any dissent among the stockholders of the Gideon-Anderson Company with respect to continuing the operation of this railroad previous to the time it was leased?

Mr. Anderson: Yes, we have some people in our concern that did not think it paid to railroad, and did not want to advance the railroad interests and do not have any stock in the railroad.

Examiner Burchmore: What was their objection to the railroad at that time?

Mr. Anderson: Because we had never made a success up to that time of running a railroad, and hauling logs. It was a failure. We fixed up the track and began doing business in a railroad way, and have made money out of it.

Mr. Walter: How much longer will it take you to cut out the Gideon-Anderson Company's holdings at the present time?

Mr. Anderson: About three or four years.

Examiner Burchmore: But further timber is available for purchase down there?

Mr. Anderson: Well, we have been there about ten years in
4924 the lumber business, and we were offered timber, but we are not buying. We think our farms and railroad business will be better than the saw mill business.

(Witness excused.)

J. R. CASTLEMAN, was called as a witness and having been duly sworn testified as follows:

Mr. Walter: Your name is John Castleman?

Mr. Castleman: Yes, sir, that is what they call me for short.

Mr. Walter: You are doing business at Five Points?

Mr. Castleman: Yes, sir, I am.

Mr. Walter: Have you a hardwood mill there?

Mr. Castleman: Yes, sir.

Mr. Walter: What is its capacity?

Mr. Castleman: About 12,000 or 15,000 feet.

Mr. Walter: Where do you ship to?

Mr. Castleman: We ship to St. Louis, Chicago, Indianapolis and send a few carloads to St. Joseph up here.

Mr. Walter: Where do you get your logs?

Mr. Castleman: We get them here lately (indicating); well, for the last year, well, the last two years, principally all
4925 over this Gideon & North Island Road.

Mr. Walter: The railroad loads those logs and brings them down to your mill?

Mr. Castleman: Yes.

Mr. Walter: And charges you one and one-half cents per 100 pounds?

Mr. Castleman: Yes.

Mr. Walter: And then they take your lumber out?

Mr. Castleman: Yes.

Mr. Walter: They charge you one cent more than the Malden rate?

Mr. Castleman: Yes, sir, they charge me 11 cents and it is 10 cents from Malden.

Mr. Walter: Has this railroad company given you all the service you have asked?

Mr. Castleman: Yes, sir, and then they sort of hurry me up every once in a while.

Mr. Walter: Can you tell me what would be the result if you had to pay to the Gideon & North Island Railroad in addition to your one and one-half cents for your logs, the local rate of three cents down to Malden or Gideon, and then the ten cent rate on to market.

Mr. Castleman: Well, sir, the grade of timber I am work-
4926 ing and the price I get for it, I just would have to go and pull the saw for them, I guess, cutting poles.

Mr. Walter: Have you heard any complaint from the public as to the manner in which this railroad treats its patrons?

Mr. Castleman: All I have heard is that if they take it up they would always think hard of them or were going to sue them for damages.

Mr. Walter: I mean the way in which they are doing business now?

Mr. Castleman: No, I have never heard a word.

Examiner Burchmore: Where do you get your logs?

Mr. Castleman: I get them around there in the south of the mill, east of the mill—I buy some from the United States Cooperage Company and some from Mr. or Professor Douglas, from Jackson, from Keller, the newspaper man, and I have got about half a million feet already spoke for providing these people extend this road east so I can get it.

Examiner Burchmore: Do you team any of your logs to the mill?

Mr. Castleman: Oh, along this fall when it was dry, I would carry a load in at dinner time and one at night with a team. I had to take them in to water them, and at night I let them pull a load, but the rest of the logs I carried with a tram road, be-
4927 cause I could not haul them—that one and a half cents was much cheaper than I could haul them a mile and a half on the average with the wagon.

Examiner Burchmore: What would it cost you to haul them one or one and a half miles on a wagon if you had to do it?

Mr. Castleman: It depends on the time of the year. It would cost you $4.00 when it is dry and now you could not get them hauled.

Examiner Burchmore: $4.00 for how much?

Mr. Castleman: 1,000 pounds.

Examiner Burchmore: Against $1.50 by the railroad?

Mr. Castleman: Yes.

Examiner Burchmore: Is that rate a cheap rate?

Mr. Castleman: Yes, sir, cheap enough.

Examiner Burchmore: You think it is reasonable?

Mr. Castleman: Yes, sir.

Examiner Burchmore: Do you think they ought to raise it?

Mr. Castleman: No.

Examiner Burchmore: You think it is pretty high?

Mr. Castleman: Yes, sir, the price that timber is.

Examiner Burchmore: Who owns this railroad?

Mr. Castleman: I could not really tell you. It has been my understanding that the Gideon-Anderson and the United
4928 States Cooperage Company. I was there when they first hatched. I have been there fifty years, and that was my understanding all the while.

Examiner Burchmore: Did you ever work for the Gideon-Anderson Company?

Mr Castleman: No, sir, never worked there a minute for them.

Examiner Burchmore: Did you ever work for the United States Cooperage Company?

Mr. Castleman: Not any more than just saw by the thousand for them.

Examiner Burchmore: You run your mill for them at times?

Mr. Castleman: Oh, yes, they have a good deal of sawing done, and I sawed by the thousand.

Examiner Burchmore: They have always treated you well?

Mr. Castleman: Oh, he is a nice man.

Mr. Walter: Did the railroad say anything to you about extending the railroad up into Section 15 to reach certain timber you have up in there?

Mr. Castleman: Well, Mr. Diercks, a member of the firm, told me the other day they were going to run it up there if they could.

4929 Mr. Walter: You have some timber up in there?

Mr. Castleman: I spoke for it and have the refusal of it.

Examiner Burchmore: What firm is Mr. Diercks a member of?

Mr. Castleman: A stockholder in the United States Cooperage company, or said to be.

Examiner Burchmore: Have you heard that this railroad is going to be taken up when they get through cutting the timber?

Mr. Castleman: No.

(Witness excused.)

MARTIN WALSH, was called as a witness, and having been duly sworn, testified as follows:

Mr. Gaughan: Shall I proceed with the examination?

Examiner Burchmore: Yes.

Mr. Gaughan: Mr. Walsh, I wish you would state where the Memphis, Dallas & Gulf Railroad is located and give a general description of its physical condition.

Mr. Walsh: With the permission of the Commission I will file a map of it which shows actually where it is built and where it is not built. This map was issued by the State Commission of Arkansas, and shows plainly on there where it was built and where it was not built.

(The map so offered and identified, was received in evidence thereupon marked Memphis, Dallas & Gulf Exhibit No. 1, Witness Walsh, received in evidence January 25, 1911, and is attached hereto.)

Mr. Gaughan: This road runs from Ashdown through Nashville to Murfreesboro in the State of Arkansas?

Mr. Walsh: Yes, sir.

Mr. Gaughan: What size towns are Murfreesboro and Nashville and Ashdown?

4931 Mr. Walsh: Well, Nashville is about 3,000 and Ashdown about 2500, and Murfreesboro about 700.

Mr. Gaughan: Nashville is the county seat of what county?

Mr. Walsh: Howard County.

Mr. Gaughan: And Murfreesboro?

Mr. Walsh: The county seat of Pike County.

Mr. Gaughan: What county is Ashdown in?

Mr. Walsh: County seat of Little River County.

Mr. Gaughan: In what manner is this railroad constructed?

Mr. Walsh: The railroad was built by the T. M. Dodson Construction Company, who built a part of the Iron Mountain and the Kansas City Southern Railroads, old time contractors.

Mr. Gaughan: Standard gauge road?

Mr. Walsh: Standard gauge road.

Mr. Gaughan: What weight of steel?

Mr. Walsh: 60 pound is the lightest.

Mr. Gaughan: Is the track ballasted?

Mr. Walsh: It is a better road than any connection we have got, that is the Kansas City Southern, the Frisco and the Iron Mountain, in better physical condition. The roadbed shows for itself, we do not have to say what it is, we know it is right there.

Mr. Gaughan: What rivers does it cross?

4932 Mr. Walsh: The Little Missouri and the Little River.

Mr. Gaughan: What character of bridges are built across those streams?

Mr. Walsh: Steel.

Mr. Gaughan: Do you know when this road was incorporated?

Mr. Walsh: In 1903, first.

Mr. Gaughan: Has the authorized amount of stock been increased?

Mr. Walsh: Yes.

Mr. Gaughan: Since the original incorporation?

Mr. Walsh: Yes, sir.

Mr. Gaughan: What is the present authorized capital?

Mr. Walsh: $7,875,000.

Mr. Gaughan: State to what points this road is projected?

Mr. Walsh: The road has been surveyed from Red River to Terrell, Texas.

Mr. Gaughan: I do not mean the survey alone.

Mr. Walsh: Well, we figure on building that line from Dallas, Texas, to Memphis, Tenn., and then constructing that line from Dallas to the Gulf, and we may go to Hot Springs, but I don't know, so many people have started there we do not want to go.

Mr. Gaughan: What amount of donations have been act-
4933 ually subscribed to that road by the cities and town- through which it is projected?

Mr. Walsh: Something over a million dollars.

Mr. Gaughan: I wish you would state, if you have it in convenient form, the amount and character of tonnage carried by the Memphis, Dallas & Gulf during its last fiscal year?

Mr. Walsh: In the last fiscal year the total tonnage was 446,894 tons.

Mr. Gaughan: Please briefly state what it consists of, as to the class of the tonnage.

Mr. Walsh: I could not say that because we handle everything.

Mr. Gaughan: Read it out.

Mr. Walsh: Well, it will show for itself.

Mr. Gaughan: I want it to go in the record.

Mr. Walsh: I propose to file it as part of the record.

Mr. Gaughan: What part of it is lumber?

Mr. Walsh: 7.78 per cent by the community of interests.

Mr. Gaughan: Which was the item of tonnage that was the heaviest, what item of tonnage did you carry that exceeded any other item?

Mr. Walsh: Sand and gravel.

Mr. Gaughan: How many bales of cotton did you handle?
4934 Mr. Walsh: About 15,000 a year.

(The paper so offered and identified, was received in evidence and thereupon marked Memphis, Dallas & Gulf Exhibit No. 2, Witness Walsh, received in evidence January 25, 1911, and is attached hereto.)

Examiner Burchmore: What line are you talking about?

Mr. Walsh: The Memphis, Dallas & Gulf.

Examiner Burchmore: From Ashdown to Murfreesboro?

Mr. Walsh: In that particular sense, yes, sir.

Examiner Burchmore: You mean also including also the line out of Graysonia?

Mr. Walsh: No, because that was not in our physical report, at that time we did not own it.

Examiner Burchmore: You do not include the line that used to be——

Mr. Walsh: The Ultima Thule. Simply the Memphis, Paris & Gulf, because of course we have not got the statement for that road. This shows we handled 59,866 revenue passengers during that time on which we collected $24,488.54.

extent of an identity of stock ownership between the Memphis, Dallas & Gulf acquired any other railroads from other railroad companies?

4935 Mr. Walsh: Yes, sir, it has purchased the Antoine Valley and the Ultima Thule, Arkadelphia & Mississippi River Railroad.

Mr. Gaughan: Is the Antoine Valley constructed along the proposed route of the Memphis, Dallas & Gulf?

Mr. Walsh: Yes, sir, it is.

Mr. Gaughan: What amount of construction is necessary to connect the Antoine Valley and the Memphis, Dallas & Gulf at the Murfreesboro terminal?

Mr. Walsh: 18 miles, which we are working on now.

Mr. Gaughan: What amount of construction will be necessary in order to connect up from the eastern terminus of the Antoine Valley to the western terminus of the Ultima Thule, Arkadelphia & Mississippi River?

Mr. Walsh: About 28 miles. We have purchased terminals in Arkadelphia, part of our terminals have already been purchased. In fact our friends, the Iron Mountain, are suing us for them now.

Mr. Gaughan: Was the Memphis, Dallas & Gulf constructed as a lumber road primarily?

Mr. Walsh: No, it never was built into the timber interest owned by the community of interests; it never went through a mile of its timber and never was built in that direction.

4936 Mr. Gaughan: Is there a community of interests to the extent of an identity of stock ownership between the Memphis, Dallas & Gulf and the Nashville Lumber Company?

Mr. Walsh: Yes, sir.

Mr. Gaughan: Otherwise than that was there any connection between the railroad and the lumber concern?

Mr. Walsh: Not a bit; they are operated entirely independently.

Mr. Gaughan: Is it not a fact that the men in the two companies are entirely separate and distinct to this extent, that some of the stockholders are lumber men and some of them are railroad men and the railroad men look after the railroad and the lumber men look after the lumber.

Mr. Walsh: That is true in a general sense, yes.

Mr. Gaughan: I wish you would furnish a list of the principal enterprises located along this line.

Mr. Walsh: There are about 35 or 40 different concerns located on our line.

Examiner Burchmore: You mean on the old Memphis, Paris & Gulf?

Mr. Walsh: On all of them. We consider all of them as one, because we have to stand the expenses of all of them. I think you have that.

4937 Mr. Gaughan: No, I gave it back to you.

Mr. Walsh: There are 35 or 40 different industries located on the line anyhow. I do not find it here, but that can be added. I can get that at any time.

Mr. Gaughan: Are there any bonds on the Memphis, Dallas & Gulf?

Mr. Walsh: Yes, sir.

Mr. Gaughan: What amount?

Mr. Walsh: $420,000.

Mr. Gaughan: Do you know how much has been sold?

Mr. Walsh: That much.

Mr. Gaughan: In these enterprises, a list of which you have agreed to furnish, how many are the stockholders of this railroad company in any way interested in?

Mr. Walsh: Only in two.

Mr. Gaughan: Which are those two?

Mr. Walsh: The Graysonia & Nashville Lumber Companies, two mills. There are 27 or 30 mills they have no interest whatever in.

Examiner Burchmore: Where are those two mills located?

Mr. Walsh: One at Graysonia and one at Nashville.

Mr. Gaughan: I have a letter here written by Captain C. C.

4938 Henderson, who is unable to attend this hearing. He lives at San Antonio. He is the moving spirit in this railroad project. He has written a letter to Mr. Walsh. This letter was written the 20th day of January. I do not want to take up time by reading the letter, but I want it copied in the record.

Examiner Burchmore: I would like to look at it.

Mr. Gaughan: It tells the history of the railroad construction.

Examiner Burchmore: Do you think it is necessary to copy it into the record.

Mr. Gaughan: I do not think it is necessary, but yet I think it is entirely proper that the Commission ought to have the benefit of what is said in that letter in order to have a clear idea of the true status of this railroad company.

Examiner Burchmore: I will permit it to be filed as an exhibit but cannot allow it to be copied into the record.

Mr. Gaughan: Will you let the record show that we request it to be copied into the record, and then let it be attached as an exhibit?

Examiner Burchmore: Yes.

(The letter so offered and identified, was received in evi-

4939 dence and thereupon marked Memphis, Dallas & Gulf Exhibit No. 3, Witness Walsh, received in evidence January 25, 1911, and is attached hereto).

Examiner Burchmore: You have read that letter and believe the statements therein to be true in every particular?

Mr. Walsh: So far as I know they are absolutely true.

Mr. Gaughan: I will ask you to file your time tables in connection with your evidence, and you may say how many trains are operated daily over this road?

Mr. Walsh: At the present time we operate about 12 trains a day.

(The time table so offered and identified was received in evidence and thereupon marked Memphis, Dallas & Gulf Exhibit No. 4, Witness Walsh, received in evidence January 25, 1911, and is attached hereto).

Examiner Burchmore: From where and to where?

Mr. Walsh: From Ashdown to Murfreesboro, Nashville to Prescott, or Tokio, over the Prescott & Northwestern, Graysonia to McLeod and from Nashville to Sparkman.

Examiner Burchmore: The Prescott & Northwestern testified, as I recall their testimony, that they operated that train.

Mr. Walsh: They could not operate it without operating
4940 over our track and with an agreement with us.

Examiner Burchmore: They said they had an agreement by which you used their rails and they operated the trains?

Mr. Walsh: No, they use our rails.

Examiner Burchmore: Yes, but they operate the trains.

Mr. Walsh: Yes, but we consider it a train on our line.

Examiner Burchmore: I want to know how many trains you operate on your own line.

Mr. Walsh: I will tell you how many we operate. We have commenced to cut down our grade to .8 of one per cent, and before we tried to cut them down we operated 14 trains a day between Tokio and Ashdown, and since we have commenced cutting the grade down to .8 per cent, we have taken off trains in order that they would not interfere with the construction work.

Mr. Gaughan: Do you still operate a passenger train from Nashville or Murfreesboro to Texarkana?

Mr. Walsh: No, we took that off on account of our construction work.

Mr. Gaughan: Where do you operate it to?

Mr. Walsh: From Ashdown to Murfreesboro, and from Bellville to Sparkman.

4941 Mr. Gaughan: On what road is Ashdown?

Mr. Walsh: The Prescott & Northwestern, the Kansas City Southern, and the Memphis, Dallas & Gulf.

Mr. Gaughan: What railroad do you connect with at Nashville?

Mr. Walsh: The Iron Mountain.

Mr. Gaughan: What railroad do you connect with at Murfreesboro?

Mr. Walsh: None.

Mr. Gaughan: At Murfreesboro no other railroad serves the town except the Memphis, Dallas & Gulf?

Mr. Walsh: That is all.

Mr. Gaughan: I believe that is all I care to ask.

Examiner Burchmore: How many trains are operated over the old Antoine Valley at the present time?

Mr. Walsh: Nothing but the logging trains.

Examiner Burchmore: How about the Arkadelphia & Ultima Thule?

Mr. Walsh: That is a mixed passenger train service.

Examiner Burchmore: One train each way a day?

Mr. Walsh: Yes, sir.

Examiner Burchmore: Could you furnish us with a list of
4942 the stockholders of the Memphis, Dallas & Gulf Railroad.

Mr. Walsh: Yes, sir.

Examiner Burchmore: Can you advise us and furnish a list of the stockholders of the Nashville Lumber Company?

Mr. Walsh: Well, that has been changed to the Graysonia & Nashville Lumber Company. I suppose that is what you want.

Examiner Burchmore: Yes.

Mr. Walsh: Yes, certainly.

Examiner Burchmore: Have you that list of industries with you?

Mr. Walsh: I haven't it here. It must be up in the room, but I will see that you get it.

Examiner Burchmore: I really wanted to know who they were, that is all.

Mr. Walsh: I could tell you lots of them personally that I know of.

Mr. Gaughan: Just name them.

Mr. Walsh: The Stevenson Company, J. C. Major, M. B. Lopidock——

Examiner Burchmore: Suppose we defer that and file your list later.

Mr. Walsh: Very well.

Examiner Burchmore: I have been reading this letter,
4943 Exhibit No. 3, and I think it had better be spread on the record, as it contains matters of information.

Mr. Gaughan: We think it should go in.

Examiner Burchmore: I think I will read a portion of it:

"In 1882 I conceived the idea of building a railroad across the southern part of Arkansas. Joined by some personal friends we had an instrumental survey made from the Mississippi River on the East to Red River on the west. Southern Arkansas being largely undeveloped at that time we were unable to finance the scheme.

In 1886 Dr. J. W. Brown of Camden and myself projected the Camden and Alexandria Railroad from Camden to El Dorado, Arkansas. This road was completed in 1890 and absorbed by the St. Louis, Iron Mountain and Southern Railroad Co. one year thereafter. It is now a part of their line from Gurdon, Arkansas to Natchez, Mississippi.

At this point my former associate withdrew. Undiscouraged however in the purpose to gratify my taste for railroad building I succeeded in interesting others and the Arkansas Southern Railroad Co. was organized and the road chartered. When out with our construction a few miles south of El Dorado Dr. J. W. Brown and others interested themselves with us in the new enterprise.

4944 The Arkansas Southern was completed from El Dorado, Ark., to Winnfield, La., distance one hundred and one miles. So direct was this line built that it did not depart from the range in which El Dorado is situated, between El Dorado and Winnfield, except in one place for a distance of half a mile. El Dorado and Winnfield being in the same range.

Our financial arrangements were practically completed for the building of the Arkansas Southern north from El Dorado to Little Rock and south from Winnfield to Colfax or Alexandria. At this juncture, however, a disagreement arose among the stockholders of the road and to avoid litigation the road was sold to the Rock Island Railroad Co. and is now a part of that system. This sale took place in 1903.

Immediately after the sale of the Arkansas Southern the old project to build a road across the southern part of Arkansas was revived. Accordingly the Memphis, Paris and Gulf Railroad Co. was organized in 1903 and a charter taken for the road. The incorporators of this new Company did not own an acre of timber and had no intention of buying any timber. The development of this enterprise was materially delayed by the death of Dr. J. W. Brown. The examination of the country to be traversed by the M. P. & G. was however not abated and in 1905 a proposition was made

4945 Pine Bluff to begin the construccion of the road west from that place. Pine Bluff did not accept our offer to them. Stockholders of the railroad company did not at that time have any interest in timber nor any plans for buying timber.

In the latter part of 1905 we were solicited by the citizens of Nashville, Ark., to begin our construction at that point and build west to Ashdown, Ark., which would give them an outlet over the Kansas City Southern and Frisco Railroads. A bonus was offered us by Nashville of about $20,000.00 and options of purchase of a large tract of timber land at about half its market value at that time. Securing tonnage, and tieing it on to our road, appealed to us and we accepted the proposition."

Do you understand by that last proposition that Mr. Henderson and his associates purchased quite a tract of timber in this country, and at the same time that they built towards Nashville and obtained this $20,000 bonus.

Mr. Walsh: No, they built out of Nashville and obtained the timber afterwards. What I wanted to explain to you is this, that the railroad proper has never been built into the timber interests or into the holdings of the timber interests. The Graysonia & Nashville Lumber Company owns its own independent railroad

4946 and its own locomotives and its own cars and own train crews, and receive no divisions.

Examiner Burchmore: We will come to that in a minute. I just want to finish this letter:

"The line between Nashville and Ashdown was at once located and built the most direct and practical route being adopted, without reference to timber. Distance 27 miles. In 1908 we built east to Murfreesboro from Nashville, distance 15 miles, the most direct and

practical route being used. The railroad company owned no timber east of Nashville nor had it ever owned any timber east of Nashville. In fact the railroad company at this time owned no timber, having sold its acquired holdings under the Nashville option to the Nashville Lumber Co. in 1906."

Then the purchase of timber referred to in the preceding paragraph of this letter was made not by Mr. Henderson personally or by the Nashville Lumber Company, but it was made by this railroad and later turned over to the lumber company.

Mr. Walsh: I do not know how you would figure it that way. The interests were exactly the same, but with the railroad is an entirely separate proposition and is a railroad.

4947 Examiner Burchmore: He then proceeds to point out that the preliminary work has been done at heavy expense towards the direction of Memphis, Tennessee and Dallas, and surveys have been made, and so forth.

"During 1909 & '10 preliminary work at heavy expense has been pushed forward between Memphis, Tenn., and Dallas, Texas, by this company. The line has been surveyed during this time between Ashdown, Ark., and Terrell, Texas. Location has been made east of Murfreesboro 20 miles, the right of way having also been secured almost the entire distance between Memphis and Terrell, Texas. Construction would have been in progress now east of Murfreesboro had it been decided after this location was completed that a better line could be secured further north which is now being surveyed. The latter line will cross the I. M. three miles north of Graysonia, the crossing of the first location.

In every particular, in the location and construction of this line, the essential characteristics of a purely commercial road to become a trunk line between Memphis, Tenn., and Dallas, Texas, have been scrupu-ously observed and complied with, as to alignment, curvature, grade, roadbed, bridges, rail and other essentials. Our line was projected as a common carrier, is being constructed and

4948 equipped as a common carrier, is performing the service daily as a common carrier, and is as truly entitled to the designation and recognition as much as any railroad in America. A large percentage of our most important systems of railroads began in a small way and moved slowly in their first stages but this did not or does not make them any less valuable to the communities they serve neither does it lessen their claims to a recognition as common carriers or trunk lines, or bona fide railroads.

The interest in timber and mills held by the stockholders of this railroad company is entirely incidental to the construction of the road and has no other significance except the attractiveness of tonnage to any railroad old or new. No concessions of any kind have been given at any time to the Nashville Lumber Company on account of the stockholders in the railroad company owning stock in the mill company.

In 1910 the Antoine Valley and the Ultima Thule roads were purchased by the M. D. & G. Co. and will be made links in the main line just as soon as the gaps can be filled in. If however the north

line is adopted out of Murfreesboro only a part of the Antoine Valley will be used as main line of the M., D. & G., the other being used as a spur to get into the mill at Graysonia. Both of these short
4949 lines are constructed almost in direct line with the original plans and direction of the M., P. & G. and was bought much cheaper than they could be built, or paralleled. The Ultima Thule was bought at half its original cost, having served its purpose as a mill road and was no longer of value to its owners.

I write in detail to show conclusively that the M., D. & G. Railroad is in no way an adjunct of or contributary to any lumber interests, and that holdings in the Nashville-Graysonia Lumber Company by some of the stockholders of the railroad company is due entirely to an outgrowth or secondary enterprise to a legitimate and bona fide commercial railroad undertaking, without reference in any way to industrial enterprises only so far as they do contribute to the well being of the railroad and development of the country being traversed.

Here it might be prudent for me to say that had my health not failed three years ago to such an extent as to compel me to give up for the time being active work that the M., D. & G. Railroad would have been completed and in operation before this from Memphis, Tenn. to Dallas, Texas. It is my first railroad effort and will likely be my last but I am determined to complete it unless defeated by a misconception and adverse ruling of our honorable I. C. C. This I do not apprehend if proper investigation is had."

4950 Examiner Burchmore: Are you an officer of the Nashville Lumber Company?

Mr. Walsh: No.

Examiner Burchmore: Or of, the Graysonia & Nashville Lumber Company?

Mr. Walsh: No.

Examiner Burchmore: Let me see that map.

Mr. Walsh: What I wanted to show you was this, here is the Memphis, Dallas & Gulf, or a part of it, and here is the Graysonia-Nashville Lumber Company running up into their timber (indicating).

Examiner Burchmore: I would like to ask a few questions with respect to the old Memphis, Paris & Gulf before it was taken over. The Memphis, Paris & Gulf ran through no timber district belonging to the Nashville people?

Mr. Walsh: I will tell you, the Memphis, Paris & Gulf Railroad was built from Nashville to Mineral Springs. All those towns are from 70 to 80 years old, and it was built through irrespective of any timber holdings. There is more independent timber in that vicinity than there is that is owned by the combined community of interests.

Examiner Burchmore: But the Nashville Lumber Company had quite a comprehensive system of private logging roads that
4951 connected at different points with the Memphis, Paris & Gulf, and extended out into their woods.

Mr. Walsh: They have right now, yes, sir, about 30 miles, or

something like that. They have four locomotives of their own, and I expect 125 or 130 cars of their own.

Examiner Burchmore: One of the mills of the Nashville Lumber Company is located at Nashville?

Mr. Walsh: Yes, sir.

Examiner Burchmore: How near to the tracks of the connecting carrier at that point?

Mr. Walsh: It is on the line of the Memphis, Dallas & Gulf.

Examiner Burchmore: How far is the mill from the Iron Mountain?

Mr. Walsh: About half a mile. They have no track connection there though.

Examiner Burchmore: How are the logs gotten into the mill at Nashville?

Mr. Walsh: Under that statement I have handed you, we charged them $5.00 a car for bringing them from the junction.

Examiner Burchmore: You haul the logs in from the junction?

Mr. Walsh: We do not haul them, but we charge them $5.00 for using our track.

Examiner Burchmore: A trackage contract?

4952 Mr. Walsh: Yes, sir.

Examiner Burchmore: Was that contract filed with the Commission?

Mr. Walsh: There was no contract, it was a tariff filed with the Arkansas State Commission. Since that time you will find in our annual report we have made an agreement to handle the same thing for 50 cents.

Examiner Burchmore: Per mile?

Mr. Walsh: For the car.

Examiner Burchmore: For the whole haul or how much?

Mr. Walsh: For the whole haul. It has never been approved of, and I do not believe it has ever been signed.

Examiner Burchmore: That $5.00 charge you refer to covered Schaal?

Mr. Walsh: Or Matthews, or any place they moved timber in from.

Examiner Burchmore: Regardless of distance?

Mr. Walsh: Under 50 miles.

Examiner Burchmore: Did you have any over 50 miles?

Mr. Walsh: No, but at the same time we charged just the same for half a mile as for 18 or 20 miles.

Examiner Burchmore: The Memphis, Dallas & Gulf spotted the empty cars at Nashville for loading to the mill?

4953 Mr. Walsh: Yes, sir.

Examiner Burchmore: Those are furnished by the Iron Mountain?

Mr. Walsh: We have some of our own cars, and of course we get our equipment from our connections.

Examiner Burchmore: Are those cars all over the United States on lines of other roads?

Mr. Walsh: You mean our cars?

Examiner Burchmore: Yes.

Mr. Walsh: Only two of them, I believe.

Examiner Burchmore: You have two cars which you let go off your rails?

Mr. Walsh: I understand they got away by mistake, but I want to say to the Commission now that you have to pay for your cars anyhow, the company that gives you a car is not losing any money.

Examiner Burchmore: You pay per diem?

Mr. Walsh: Yes, sir.

Examiner Burchmore: How much per day?

Mr. Walsh: The regular rate, whatever it is, but we have to pay it.

Examiner Burchmore: How far do you move the empty
4954 car and loaded car at Nashville from and to the mill and from and to the Iron Mountain?

Mr. Walsh: About half a mile.

Examiner Burchmore: What do you receive for that service?

Mr. Walsh: We get divisions which run up to six and one-half cents. I would say our general average is about five and a half cents.

Examiner Burchmore: What is the lowest division you receive?

Mr. Walsh: About four cents on anything that moves.

Examiner Burchmore: Four to six and one-half cents?

Mr. Walsh: Something like that.

Examiner Burchmore: You haul it half a mile?

Mr. Walsh: Yes, sir.

Examiner Burchmore: How far does the Iron Mountain haul it?

Mr. Walsh: It depends where it goes; that is only out of that one mill.

Examiner Burchmore: I am asking about that one mill.

Mr. Walsh: Supposing that stuff comes from Ashdown, we haul it 27 miles and give it to them.

Examiner Burchmore: Where is your usual market for lumber from Nashville, where does most of it go?

4955 Mr. Walsh: I could not say.

Examiner Burchmore: What is a usual junction point for the Iron Mountain to take it to?

Mr. Walsh: Thebes.

Examiner Burchmore: The Iron Mountain hauls it all the way to Thebes?

Mr. Walsh: Yes, sir.

Examiner Burchmore: What do they get for hauling it to Thebes?

Mr. Walsh: They get the balance after what we get.

Examiner Burchmore: Do you know what that balance is?

Mr. Walsh: That is about 14 cents.

Examiner Burchmore: About 14 cents is the balance?

Mr. Walsh: Yes.

Examiner Burchmore: What is the length of their haul to Thebes?

Mr. Walsh: I do not know exactly.

Examiner Burchmore: 1000 miles or 500 miles.

Mr. Walsh: Well, I know it is not 500 miles.

Examiner Burchmore: I have not any idea.

Mr. Walsh: I know it is not 500 miles and it is not a thousand,

of course, because it is only 590 miles from here to Texarkana,
4956 and I know it is less than that.

Examiner Burchmore: Do you know how many cars you handle from the mill at Nashville in the course of a year?

Mr. Walsh: I could not say. I imagine 100 cars, or something like that.

Examiner Burchmore: You have another mill on this division of your system located at Graysonia?

Mr. Walsh: Yes, sir.

Examiner Burchmore: Where is Graysonia?

Mr. Walsh: It is on the Gurdon & Fort Smith Division of the Iron Mountain.

Examiner Burchmore: That Gurdon & Fort Smith Division was formerly owned by Mr. Henderson or his lumber company according to his letter, as I remember it.

Mr. Walsh: No, that was the line below Camden, from Camden into El Dorado.

Examiner Burchmore: The Grayson-McLeod Lumber Company used to control that lumber company?

Mr. Walsh: I don't know.

Examiner Burchmore: Well——

Mr. Gaughan: The Grayson-McLeod people owned that mill and also owned that railroad.

Examiner Burchmore: That is on an entirely different
4957 part of your system?

Mr. Walsh: Now let me say something on that proposition——

Examiner Burchmore: Let us dispose of the Ashdown, Murfreesboro line before we run to the other part of the system.

Mr. Walsh: I do not think you have gone into it far enough yet.

Examiner Burchmore: All right, I want to know some more about it.

Mr. Walsh: You said where do we haul it to give it to the Iron Mountain. We do not have to give it to the Iron Mountain.

Examiner Burchmore: To whom else could you give it?

Mr. Walsh: We could haul it to Ashdown and give it to the Kansas City Southern or the Frisco, if we wanted to.

Examiner Burchmore: Do you do that?

Mr. Walsh: Sometimes.

Examiner Burchmore: How far is that haul?

Mr. Walsh: 28 miles.

Examiner Burchmore: What is your division?

Mr. Walsh: Five cents.

Examiner Burchmore: You do not haul it 28 miles and get five cents when you could haul it half a mile and get five cents?

4958 Mr. Walsh: Well, we just do.

Examiner Burchmore: What extent, what movement out in that direction is there?

Mr. Walsh: Just as I see fit to make it, it is up to me how much goes that way, and I am not going to treat my friends at the other end any better than I do at Nashville.

Examiner Burchmore: Then the lumber company does not regulate the routing of this stuff?

Mr. Walsh: No, I route it.

Examiner Burchmore: What proportion of the traffic is turned over to the Iron Mountain at Nashville, and what proportion goes through Ashdown?

Mr. Walsh: I split it up as near as I can.

Examiner Burchmore: Have you any contracts requiring you to split it up?

Mr. Walsh: No.

Examiner Burchmore: Have you any contracts between the Memphis, Paris & Gulf or the Memphis, Dallas & Gulf with the Frisco?

Mr. Walsh: No, sir, no contracts of any character whatever with any line.

Examiner Burchmore: Is that five cents you received for hauling a car from Nashville to Ashdown adequate revenue?

4959 Mr. Walsh: I don't know about that. I am going to get all I can.

Examiner Burchmore: Well, do you think you ought to have more?

Mr. Walsh: Yes, if I could get it.

Examiner Burchmore: Do you lose money in hauling it down there at that rate?

Mr. Walsh: I don't know about that.

Examiner Burchmore: Do you know what the Frisco charges for hauling it from Ashdown to Memphis? They have a line to Memphis, I suppose?

Mr. Walsh: Yes.

Examiner Burchmore: Do you know what they get?

Mr. Walsh: Yes, sir.

Examiner Burchmore: How much?

Mr. Walsh: They get the difference between our division and what the through rate is.

Examiner Burchmore: What is the through rate?

Mr. Walsh: The through rate at the present time is 16 cents.

Examiner Burchmore: And you get how much?

Mr. Walsh: Five cents.

Examiner Burchmore: And they get 11 cents?

4960 Mr. Walsh: Yes, sir.

Examiner Burchmore: You haul it 28 miles?

Mr. Walsh: Yes, sir.

Examiner Burchmore: How far do they haul it?

Mr. Walsh: I don't know, about 600 or 700 miles, I guess; it is a long way around that way.

Examiner Burchmore: When you couple up the lines of your system and have the through lines from Nashville to Memphis, what will your mileage be?

Mr. Walsh: 442 miles.

Examiner Burchmore: And you will get 16 cents for hauling lumber up there?

Mr. Walsh: We expect to. Now I want to say we have connections, we have got to haul lumber for two cents some places.

Examiner Burchmore: From where to where?

Mr. Walsh: Take a car of lumber that originates on the Prescott Northwestern, we have to handle that under a joint proposition.

Examiner Burchmore: I was going to ask about that, but wanted to get through with the Nashville mill if I could. They draw logs for the Nashville mill from this private logging road which runs from Schaal north to——

4961 Mr. Walsh: Yes, sir, but you know those logging roads are taken up. Of course, 10 or 12 miles will stay down all the time, but they take them up at the end and put them here and there where the timber is.

Examiner Burchmore: Does the Graysonia-Nashville Lumber Company receive any allowance whatsoever on account of this haul of the logs?

Mr. Walsh: Not one cent. They have asked for it several times though.

Examiner Burchmore: What logging roads have they besides those that connect with your line at Schaal?

Mr. Walsh: They have the one at Matthews and Graysonia and Leard.

Examiner Burchmore: Where is Matthews?

Mr. Walsh: Down below White Cliffs, just below Schaal on that map. They have about six miles.

Examiner Burchmore: Between Ashdown and White Cliffs?

Mr. Walsh: Between Ashdown and White Cliffs, which will probably be extended, they will probably run it down 15 miles.

Examiner Burchmore: But the only mill that the Graysonia-Nashville Lumber Company has on this particular division is that at Nashville?

Mr. Walsh: Yes, sir.

4962 Examiner Burchmore: What other mill on that line?

Mr. Walsh: The Stephenson Lumber Company, Major Stave Company, Haight & Sons Lumber Mill, Loperdock Lumber Company, Odell Lumber Company, and several others.

Examiner Burchmore: Do they have any private logging roads?

Mr. Walsh: No.

Examiner Burchmore: How do they get logs into the mill?

Mr. Walsh: Haul them in by team.

Examiner Burchmore: What is the capacity of those mills?

Mr. Walsh: Small. Most of them are small, although the Stephenson and the Major Stave Company are very large mills.

Examiner Burchmore: What do you suppose it costs them to get their logs to their mills?

Mr. Walsh: I have not any idea.

Examiner Burchmore: More than it costs the Graysonia-Nashville Company?

Mr. Walsh: I do not think it costs them as much. They have not got the capital invested.

Examiner Burchmore: Those mills are of a temporary character?

Mr. Walsh: No.

4963 Examiner Burchmore: Permanent?

Mr. Walsh: Practically, yes, sir; that is I would say they are practically permanent.

Examiner Burchmore: Are there any other private logging roads which connect with your line from Ashdown to Murfreesboro?

Mr. Walsh: No, although we have a man coming in who has asked for those same contracts we have — the lumber company, and he will get the same thing if he comes in.

Examiner Burchmore: The Prescott & Northwestern connects with your line at Tokio?

Mr. Walsh: Yes, sir.

Examiner Burchmore: How long have you had such a connection?

Mr. Walsh: About two years.

Examiner Burchmore: Do you have any joint rates on lumber in connection with them?

Mr. Walsh: Yes, sir.

Examiner Burchmore: Do you turn any business over to them or do they turn it all over to you?

Mr. Walsh: Both ways, both give and take.

Examiner Burchmore: Do you know what the volume of the movement is in each direction?

Mr. Walsh: It does not amount to very much, but it is

4964 growing.

Examiner Burchmore: What lumber do you turn over to the Prescott & Northwestern?

Mr. Walsh: None.

Examiner Burchmore: You do not give them any lumber?

Mr. Walsh: No, they give us lumber.

Examiner Burchmore: Where is it destined?

Mr. Walsh: Fort Smith and different points.

Examiner Burchmore: How many carloads a month do you receive? Have you any idea?

Mr. Walsh: Not very many. I expect it will grow, though.

Examiner Burchmore: Two or three a month?

Mr. Walsh: Yes, more than that, I guess.

Examiner Burchmore: What advantage is it to the Prescott & Northwestern to deliver lumber to you at Tokio rather than to the Iron Mountain at Prescott?

Mr. Walsh: I suppose the lumber originates with them about four miles from Tokio. Why should they haul it to Prescott when they can consign it out by our line on the same rate and divisions?

Examiner Burchmore: Is it your impression they give you more lumber than the Iron Mountain?

Mr. Walsh: We know they do not.

4965 Examiner Burchmore: Why not?

Mr. Walsh: Because their mill is located at Prescott.

Examiner Burchmore: I thought the mill was nearer Tokio.

Mr. Walsh: No.

Examiner Burchmore: What advantage is there in giving you the lumber?

Mr. Walsh: Why shouldn't they? Say it originates west of Tokio, what would they want to haul it 40 miles for, when they can give it to us and haul it four?

Examiner Burchmore: Have they any lumber mills west of Tokio?

Mr. Walsh: No, but they have timber which originates there.

Examiner Burchmore: They give you the logs?

Mr. Walsh: It is a rough proposition, bolts or something like that, staves or stave bolts.

Examiner Burchmore: But no lumber comes to you?

Mr. Walsh: No finished lumber. Now I do not say no finished lumber, because they do ship some finished lumber too.

Examiner Burchmore: When you receive a carload of staves at Tokio from the Prescott & Northwestern, what division do you receive and what do they get?

Mr. Walsh: We get two and three cents, and they get four cents or five cents. We pay them just whatever the Iron Moun-
4966 tain would pay hem. It depends where the shipment goes. We have got to meet the situation as it exists.

Examiner Burchmore: But I thought you only got five or six cents out of the Frisco and the Iron Mountain.

Mr. Walsh: But this is a joint proposition, when it moves over the Prescott & Northwestern it is based on different divisions; we get two or three cents for our haul and they get the same as if they shipped by the Iron Mountain.

Examiner Burchmore: Then it is not a fact when you receive traffic from the Prescott & Northwestern that you divide your earnings with them?

Mr. Walsh: No.

Examiner Burchmore: But you get a certain payment and they get a certain payment.

Mr. Walsh: Yes, sir.

Examiner Burchmore: The trunk line gets less than if it came from a point on your line?

Mr. Walsh: Yes.

Examiner Burchmore: Is there anything else you wish to state about this line between Murfreesboro and Ashdown before we go to the next division?

Mr. Walsh: Nothing, only I want to make it plain that the busi-
ness of the community of interests on the entire line is only
4967 7.78 per cent of the whole.

Examiner Burchmore: Well, I do not think you have made it clear. You indicate, for example, that 250,980 tons of stone, sand and gravel moved over this line.

Mr. Walsh: Yes, sir.

Examiner Burchmore: Who owns the gravel pit which it came from?

Mr. Walsh: The Memphis, Dallas & Gulf Railroad.

Examiner Burchmore: To whom was it destined?

Mr. Walsh: It was sold to the Kansas City Southern, the Frisco, and the Iron Mountain Railroads.

Examiner Burchmore: What rate did you receive on that stuff?

Mr. Walsh: $5.00 a car.

Examiner Burchmore: Was it sold f. o. b. destination or point or origin?

Mr. Walsh: Sold f. o. b. at our junction with the other lines.

Examiner Burchmore: Then you paid yourself the $5.00, did you not?

Mr. Walsh: Yes.

Examiner Burchmore: Then that accounts for $27,067.23 out of your gross revenue of $118,815?

4968 Mr. Walsh: Yes.

Examiner Burchmore: I may ask you whether your counsel has ever advised you as to the applications, if any, of the so-called commodity clause in the Act to Regulate Commerce to the transportation of stone, sand and gravel by a railroad company?

Mr. Walsh: Not that I know of.

Examiner Burchmore: That stone, sand and gravel constitutes 56.16 per cent of the total tonnage, as I understand it?

Mr. Walsh: Yes.

Examiner Burchmore: But not revenue?

Mr. Walsh: Yes.

Examiner Burchmore: Under the heading of lumber you show other products of forests 135,096 tons. Is that logs?

Mr. Walsh: Yes. Logs and bolts and rough stuff.

Examiner Burchmore: How much of that was logs, in your opinion?

Mr. Walsh: I could not say; I guess 70 per cent of it, probably 65 or 70 per cent.

Examiner Burchmore: On that your revenue was $28,795.90. From whom did you collect that?

Mr. Walsh: Whoever the shipments were consigned to.

4969 Examiner Burchmore: Well, to whom were they consigned, in a large measure?

Mr. Walsh: I could not say that. They are consigned to everybody along the line.

Examiner Burchmore: Do you include in that the logs which moved on account of the mill at Nashville?

Mr. Walsh: Yes.

Examiner Burchmore: That includes this $5.00 per car charge?

Mr. Walsh: Yes, sir. It is my understanding that they pay cash just the same as anybody else.

Examiner Burchmore: What was the total amount you collected on such movement?

Mr. Walsh: I could not say any more than that statement shows.

Examiner Burchmore: This does not separate between stave bolts, and so forth.

Mr. Walsh: I could not say, it would be all a guess.

Examiner Burchmore: I want a guess; do you think it would be $25,000 that you got from the Nashville mill people for hauling their logs?

Mr. Walsh: I might as well guess at $100,000.

Examiner Burchmore: But there are only $28,000 total.

4970 Mr. Walsh: No, I would say not. I would say that is $18,000 probably. In fact I don't believe it will run that much.

Examiner Burchmore: Will you advise the Commission of the total amount of money paid to your company during the fiscal year ending June 30th, 1910, by or in the interest of or on account of the Graysonia-Nashville Lumber Company under that trackage arrangement between Schaal or other points, and Nashville?

Mr. Walsh: I will be very glad to.

Examiner Burchmore: By the total money paid, I mean of course the earnings that accrued on that business, whether it was paid or not. Some of it may have been carried in account in some way.

Mr. Walsh: What you mean is the revenue on that business which was handled during that period destined to them?

Examiner Burchmore: Yes. You have only got 7,090 tons of lumber. Was that the total output of that mill for a year at Nashville?

Mr. Walsh: I do not think that shows separate, does it?

Examiner Burchmore: I will ask you to explain this item in this statement, reading "Lumber 7,090 tons." Who furnished

4971 that lumber?

Mr. Walsh: All the different mills on the line.

Examiner Burchmore: Including the Nashville mill?

Mr. Walsh: Yes.

Examiner Burchmore: Then I ask you what is the total output of that mill at Nashville?

Mr. Walsh: Excuse me. Let me answer it. There is the total output of it right there (indicating).

Examiner Burchmore: 31,958 tons of lumber?

Mr. Walsh: Yes.

Examiner Burchmore: And the other figure, 7,090 tons is independent lumber?

Mr. Walsh: Outside lumber, yes, sir.

Examiner Burchmore: I see a lot of other items on here. For example, "Dressed meats, 119 tons." Was any part of that intended for the use at Nashville by the store owned by the Nashville Lumber Company?

Mr. Walsh: Not that I know of. I do not think any of it was.

Examiner Burchmore: Have they any company stores?

Mr. Walsh: Yes, sir.

Examiner Burchmore: Where?

Mr. Walsh: Nashville.

4972 Examiner Burchmore: Have you included in this statement the tonnage transported for account of the company store at Nashville?

Mr. Walsh: The company store gets their principal business through the Iron Mountain and we do not touch it at all. Of course we do handle some business consigned to the store, but it is business which comes from Kansas City or in the west. Their principal business comes from Little Rock, and Arkadelphia, which we cannot handle.

Examiner Burchmore: You handled 204 tons of steel rail?

Mr. Walsh: Yes, sir.

Examiner Burchmore: Where did that go?

Mr. Walsh: To the tap lines of the Graysonia Lumber Company.

Examiner Burchmore: In other words, in a substantial sense the figures carried at the bottom of the page and purporting to show traffic by the Nashville Lumber Company, are not exactly accurate?

Mr. Walsh: They are in that sense that they read there.

Examiner Burchmore: Just as they read?

Mr. Walsh: Yes, sir.

Examiner Burchmore: You have the Nashville Lumber Company's lumber and its other products separated, but you have
4973 not separated such items as steel rails intended for their logging spurs?

Mr. Walsh: Steel rails pay us revenue just the same as if it went to you or anybody else. It comes in under the tariff rates.

Examiner Burchmore: I understand, I was just commenting on this statement to try to bring out whether the statement at the bottom of the page that the Nashville Lumber Company shipments constitute 23.61 per cent of the revenue was correct?

Mr. Walsh: You will not find another item on the same page that you can say the same thing about that, though.

Examiner Burchmore: I do not know that I will, but I was simply examining the statement to see how complete it was.

Mr. Walsh: Of course rails are very prominent, they always show out on a short road.

Examiner Burchmore: Who used this 5,250 tons of coal?

Mr. Walsh: For our own company principally and the merchants along the line.

Examiner Burchmore: How much of that did you use, do you suppose?

Mr. Walsh: I expect four-fifths.

Mr. Gaughan: You mean the railroad?

Mr. Walsh: Yes, sir; the mill burns a good deal of their
4974 own refuse.

Examiner Burchmore: You have charged $3,000 plus for transporting 5,250 tons of coal, of which four-fifths was used by your road.

Mr. Walsh: Why shouldn't we? We get a division on our coal the same as if it went to somebody else.

Examiner Burchmore: I understand, but this is a tonnage and revenue statement.

Mr. Walsh: But it is part of our revenue if we get a division on it, and ought to appear in that statement.

Examiner Burchmore: This statement covers only this one division of the railroad and not the old Antoine Valley.

Mr. Walsh: Yes, sir. We did not have the other part of that railroad at that time.

Examiner Burchmore: I request, Mr. Gaughan, that you will furnish the Commission a little different statement than this, one indicating the total tonnage and total revenue from shipments

handled on account of the Nashville Lumber Company or anybody or any firm or enterprise in which it has an interest such as its company store, and also showing separately stated the revenue on shipments originated by or destined to independent mills or shippers or the general public, and showing as the third item if you so
4975 desire the tonnage and revenue of such things as coal used by the railroad itself, or the stone and sand from its gravel pits. This statement does not seem to be separated in that way.

Mr. Gaughan: I understand, but I had nothing to do with the preparation of that statement. I was employed just before noon in this case. But I will have it gotten up.

Examiner Burchmore: You will have it prepared?

Mr. Walsh: Well, I just hired the gentleman this afternoon, so I don't know——

Examiner Burchmore: I addressed him as counsel, thinking you would wish it forwarded through. Is there any line now built between Murfreesboro and Graysonia?

Mr. Walsh: We are working on the line right now.

Examiner Burchmore: Has the Graysonia-Nashville Lumber Company any private logging spurs up in that vicinity?

Mr. Walsh: Yes, sir.

Examiner Burchmore: Where are they located?

Mr. Walsh: It runs out from Leard about five miles this way from Graysonia. We own the line from Graysonia out to McLeod.

Examiner Burchmore: When did you acquire it?

Mr. Walsh: July 1st.

4976 Examiner Burchmore: 1909?

Mr. Walsh: 1910.

Examiner Burchmore: Previous to that time who owned the mill at Graysonia?

Mr. Walsh: The Graysonia & McLeod Company.

Examiner Burchmore: Who owns it today?

Mr. Walsh: The Graysonia-Nashville Lumber Company.

Examiner Burchmore: When did they acquire that mill?

Mr. Walsh: I think the 1st of July, I am not sure.

Examiner Burchmore: On the same day the railroad was acquired?

Mr. Walsh: I think so, about that time.

Examiner Burchmore: The Graysonia-Nashville Lumber Company, let me ask whether it is your understanding that that is really a consolidation of two lumber companies?

Mr. Walsh: Yes, sir, it is. It is my understanding.

Examiner Burchmore: Were the persons who were interested previously in the two companies different persons?

Mr. Walsh: I do not understand that question just exactly.

Examiner Burchmore: I mean had there previously been a substantial identity of interests between the Graysonia Lumber Company and the Nashville Lumber Company?

4977 Mr. Walsh: No.

Examiner Burchmore: They were different people?

Mr. Walsh: Yes, sir.

Examiner Burchmore: Different financial interests?

Mr. Walsh: Yes, sir.

Examiner Burchmore: And they combined into one big corporation?

Mr. Walsh: Yes, sir.

Examiner Burchmore: Did anyone else come in with them?

Mr. Walsh: No.

Examiner Burchmore: Mr. C. C. Henderson was previously interested in the Nashville Lumber Company?

Mr. Walsh: Yes, sir.

Examiner Burchmore: Did he have any interest in the Graysonia Lumber Company?

Mr. Walsh: Not that I know of. I do not think he did.

Examiner Burchmore: I requested a list of stockholders of the Graysonia-Nashville Lumber Company, and also of the Memphis, Dallas & Gulf Railroad. We would like those statements say as of date today or any convenient recent date. Could you also give us a list of the stockholders of the Graysonia Lumber Company as they were just previous to the transfer?

4978 Mr. Walsh: I do not know. I will ask for that information.

Mr. Gaughan: I will get it for you if I can.

Examiner Burchmore: I wish you would get it if you can.

Mr. Walsh: I think I can. I will say that the community of interests owns our railroad, there is not any question about it. They own it lock, stock and barrel.

Examiner Burchmore: How long will it be before the connection is made between the line at Murfreesboro and the line at Graysonia?

Mr. Walsh: It depends upon the financial conditions. We are trying to get the money now.

Examiner Burchmore: Are you engaged on it now?

Mr. Walsh: We are. We have our engineers on it now in fact.

Examiner Burchmore: You have not come to grading it yet?

Mr. Walsh: No.

Examiner Burchmore: The third length of this railroad is what was formerly the Arkadelphia & Ultima Thule?

Mr. Walsh: Yes. We got a *bag* there.

Examiner Burchmore: Have you any mill on that *bag*?

Mr. Walsh: We have five, but we only lose about $800 a month operating it.

4979 Examiner Burchmore: Who has a mill on that line?

Mr. Walsh: The Arkadelphia Mill Company, the Ohio Stave Company, and Miles & North.

Examiner Burchmore: Are any of those mills now owned by the Graysonia-Nashville Lumber Company?

Mr. Walsh: No.

Examiner Burchmore: From whom did the Memphis, Dallas & Gulf purchase the Arkadelphia, Ultima Thule & Mississippi River Railroad?

Mr. Walsh: From Grayson & McLeod.

Examiner Burchmore: Did Grayson & McLeod have any timber interests up there?

Mr. Walsh: They did years ago, but it has all been cut out many years ago.

Examiner Burchmore: What do those five mills do up there?

Mr. Walsh: Hardwood mills principally. Grayson & McLeod cut pine principally. Those are hard mills up there now, and of course some of that pine is growing up now that will be cut, I expect.

Examiner Burchmore: Where is the mill at Graysonia located?

Mr. Walsh: Well, it is about, I should say, 500 feet from the Iron Mountain's main line.

Examiner Burchmore: Does the Iron Mountain spot the
4980 empty cars to the mill?

Mr. Walsh: No, the Memphis, Dallas & Gulf does.

Examiner Burchmore: What divisions do you receive on that part of your railroad?

Mr. Walsh: Just the same as we do on the other; it is all the same, it is all one proposition.

Examiner Burchmore: What were the divisions before you acquired that railroad?

Mr. Walsh: I could not say.

Examiner Burchmore: You could not say whether they were less or more than they are now?

Mr. Walsh: I have understood some of them were more.

Examiner Burchmore: Are the rates on that division on the milling in transit basis?

Mr. Walsh: Yes, sir, all our rates are on the milling in transit basis, but we do not take advantage of it.

Examiner Burchmore: What, if anything, do you charge the Graysonia-Nashville Lumber Company for the hauling of the logs to Graysonia?

Mr. Walsh: That is the same proposition as on the main line, $5.00 a car, but they have a contract for 50 cents, which I do not think has been signed. You will find it in our annual report.

4981 Examiner Burchmore: The mills on the Arkadelphia Road, do they have the same rates and interstate divisions as apply from Arkadelphia on the Iron Mountain?

Mr Walsh: No.

Examiner Burchmore: An arbitrary higher?

Mr. Walsh: In some instances five cents higher, and in some three cents.

Examiner Burchmore: Can you not put in joint rates from points on that line?

Mr. Walsh: They are joint rates, but there is a discrimination against us.

Examiner Burchmore: Are you not able to remove that discrimination?

Mr. Walsh: We are going to try to get the Commission to do it. We do not know whether they will or not.

Examiner Burchmore: What is the reason for that discrimination?

Mr. Walsh: I don't know.

Examiner Burchmore: Of course, it is hardwood lumber, you say. What about the Graysonia mill, does that have the same rate that the Iron Mountain charges from its stations in that vicinity?

4982 Mr. Walsh: It does on some, and some it does not.

Examiner Burchmore: Tell me about the joint rates from that mill?

Mr. Walsh: You take the rate from Graysonia on the Iron Mountain to New York, it is 37 cents, and Graysonia on the Memphis, Dallas & Gulf it is about 46 cents.

Examiner Burchmore: Do you ship anything to New York?

Mr. Walsh: We cannot do it, the rate is against us.

Examiner Burchmore: Where do you ship?

Mr. Walsh: Different destinations, Western Trunk Line and Central Freight Association points. In that case they are just the same.

Examiner Burchmore: Well, where you ship the rates are the same?

Mr. Walsh: Yes.

Examiner Burchmore: And the divisions are the same as obtain on the other line?

Mr. Walsh: Practically, yes, sir, although the same hardwood proposition exists there; it is higher than it is on our main line by four or five cents.

Examiner Burchmore: Do not hardwood rates ought to be on a parity with the yellow pine rate?

4983 Mr. Walsh: They ought to be higher.

Examiner Burchmore: I mean ought there not to be the same relation between your pine and hardwood rates at Graysonia that exist between the pine and hardwood rates from nearby stations on the Iron Mountain?

Mr. Walsh: Yes, sir, that condition ought to exist every place.

Examiner Burchmore: Does it not?

Mr. Walsh: No, it does not.

Examiner Burchmore: Why?

Mr. Walsh: It is simply a discrimination, that is all.

Examiner Burchmore: You mean your railroad is a party to discriminatory rates?

Mr. Walsh: No, I mean the other fellow discriminates against us.

Examiner Burchmore: You do not ship any hardwood?

Mr. Walsh: Yes, but you cannot tell when we are going to.

Examiner Burchmore: Have you made any effort to get the Iron Mountain to reduce the hardwood rates?

Mr. Walsh: No, I have asked the Iron Mountain to adjust the situation. I believe in high rates, and I do not care how high they carry them, just so they carry the same from our stations as from their own.

4984 Examiner Burchmore: Do you want them to raise the yellow pine rates?

Mr. Walsh: I don't care whether they do or not, but I want them to carry the same rates all around.

Examiner Burchmore: You have not succeeded though in getting them to raise any rates?

Mr. Walsh: Yes, sir.

Examiner Burchmore: What rates?

Mr. Walsh: They have raised the hardwood rates from our line four cents per 100 pounds by my request, and I did not get anything out of the divisions by doing it.

Examiner Burchmore: You kept the same divisions?

Mr. Walsh: Yes, sir.

Examiner Burchmore: Did that increase the revenue of the Iron Mountain to any extent?

Mr. Walsh: Certainly, just that much.

Examiner Burchmore: Is there any complaint on the part of the hardwood mills on your Ultima Thule Branch as the result of raising the rates on hardwood?

Mr. Walsh: Yes, sir.

Examiner Burchmore: Did they complain?

Mr. Walsh: Some of them do.

4985 Examiner Burchmore: Can you name them?

Mr. Walsh: The Arkadelphia Mill Company and Miles & North, I think; at least they objected to the advance, but it went into effect. I do not know that they made any special complaint.

Examiner Burchmore: The Grayson & McLeod Company sold the Antoine Valley to the Memphis, Dallas & Gulf?

Mr. Walsh: Yes, sir.

Examiner Burchmore: Did they reserve to themselves trackage rights over the Antoine Valley for their logging trains?

Mr. Walsh: They reserved no rights at all.

Examiner Burchmore: Has the Memphis, Dallas & Gulf any contracts with the Grayson & McLeod Lumber Company?

Mr. Walsh: None, but what is mentioned in the annual reports.

Examiner Burchmore: Are those filed with the Commission?

Mr. Walsh: No.

Examiner Burchmore: Will you file them for this case?

Mr. Walsh: Certainly.

Examiner Burchmore: Are there any contracts between——

Mr. Walsh: I want to state that that track contract is open to anybody.

4986 Examiner Burchmore: What sort of contract is it?

Mr. Walsh: Simply 50 cents a car; it has never been approved, but I have quoted it to other people, what we would call outside independent people, I have quoted them the same proposition.

Examiner Burchmore: Have you any other contracts which you took over when you took over these railroads?

Mr. Walsh: None at all.

Examiner Burchmore: Has the Grayson & McLeod Company gone out of business as a corporation?

Mr. Walsh: No.

Examiner Burchmore: What are they doing now?

Mr. Walsh: Lumber business.

Examiner Burchmore: Where?

Mr. Walsh: Here in St. Louis.

Examiner Burchmore: Have they any mills?

Mr. Walsh: They are part owners in our mills and in our line.

Examiner Burchmore: I understood that was a new corporation.

Mr. Walsh: It is a new corporation, I just say it in that way.

Examiner Burchmore: I mean has the Grayson & McLeod Lumber Company, as a separate corporation, continued in business?

4987 Mr. Walsh: Now I could not say, I think they have.

Examiner Burchmore: Where is the Clark & Pike County Railroad, do you know?

Mr. Walsh: No, I never heard of it.

Examiner Burchmore: What did you pay for the Antoine Valley Railroad?

Mr. Walsh: I don't believe it has been paid for yet.

Examiner Burchmore: What is the consideration for the purchase?

Mr. Walsh: The consideration was the Grayson & McLeod people sent an expert there to examine the property, and we sent our Chief Engineer to go with him and make an estimate on what the value of it was and we were to pay them in so much of our bonds or stock for the line as the appraisers made the price.

Examiner Burchmore: Has the road been appraised yet?

Mr. Walsh: Yes, sir.

Examiner Burchmore: Do you know what that appraised value is?

Mr. Walsh: No, I do not.

Examiner Burchmore: Was it appraised before the sale was consummated?

Mr. Walsh: No—well, I do not know that the sale has
4988 been consummated yet, except it was taken in in that way, that it would be at that price. Now that part of it I could not say.

Examiner Burchmore: Well, the sale was consummated to the extent that your railroad has taken it?

Mr. Walsh: Yes.

Mr. Gaughan: I understand the sale was consummated and they agreed to abide by what these parties fixed the price at.

Examiner Burchmore: Is it not a fact that the Antoine Valley and the Grayson & McLeod mills and timber lands in that vicinity were all sold as a unit for a unit price?

Mr. Walsh: Not that I know of.

Examiner Burchmore: You do not know that they were not?

Mr. Walsh: No.

Examiner Burchmore: You do not know that the railroad was appraised previous to the sale?

Mr. Walsh: No, I do not.

Mr. Gaughan: I think it was sold on a price to be fixed by disinterested appraisers.

Mr. Walsh: Well, I know that.

Examiner Burchmore: Is there any contract of sale?

Mr. Walsh: None that I know of.

4989 Examiner Burchmore: Do you know what price was paid or agreed upon for the Ultima Thule Road?

Mr. Walsh: It was the same proposition on both, one was making a little money and the other one was losing a whole lot.

Examiner Burchmore: You referred to some suit brought by the Iron Mountain Railroad.

Mr. Walsh: That was for terminals. We bought some terminals in Arkadelphia and the Iron Mountain has brought suit against us for the ground that we purchased as part of our terminal.

Examiner Burchmore: On what ground?

Mr. Walsh: They want to condemn the property.

Examiner Burchmore: Has there been any judgment or decree in that proceeding?

Mr. Walsh: It opened up Monday and I have not heard from the case since. It is in Clark County.

Examiner Burchmore: Will you advise the Commission the result of that litigation?

Mr. Walsh: Yes, sir.

Examiner Burchmore: We have some literature here advertising an excursion that your company got up.

Mr. Walsh: Oh, that is the diamond fields.

4990 Examiner Burchmore: You were connected with the Memphis, Dallas & Gulf at that time?

Mr. Walsh: Yes, sir.

Examiner Burchmore: Was that excursion a success?

Mr. Walsh: No, we lost about $800, I think. We got stuck.

Examiner Burchmore: How many people took in that excursion?

Mr. Walsh: I should say about 400 to 600, between 400 and 600.

Examiner Burchmore: Where was the excursion from and to?

Mr. Walsh: From Texarkana, Ashdown and all around that country.

Examiner Burchmore: Did you induce any new settlers to come in as the result of that excursion?

Mr. Walsh: Well, I will tell you, there is plenty of room for new settlers, but our land is practically all settled up.

Examiner Burchmore: I will ask you whether you have seen the letter written by J. W. Bishop. It apparently is signed by him, and addressed to the Secretary of the Interstate Commerce Commission under date of January 16th, 1911.

Mr. Walsh: Yes, sir, I saw it.

Examiner Burchmore: Are the statements therein made correct so far as you understand?

Mr. Walsh: So far as I know they are absolutely correct.

4991 Examiner Burchmore: And your impression is they are correct even in particulars as to which you are not advised?

Mr. Walsh: Yes, sir, in every way.

Examiner Burchmore: That is filed in the case, so it will not be

offered as an exhibit. You received your entire compensation or salary from this railroad?

Mr. Walsh: Yes, sir.

Examiner Burchmore: You are not paid anything by the lumber company?

Mr. Walsh: No.

Examiner Burchmore: Is there any other salaried officer of the railroad?

Mr. Walsh: Practically all of them.

Examiner Burchmore: Are they also officers of the lumber company?

Mr. Walsh: No.

Examiner Burchmore: Does Mr. Bishop work for any lumber company?

Mr. Walsh: Yes, sir. I do not know whether he gets any salary from the lumber company. He gets $200 a month from the railroad company, but our auditor, general superintendent and all of them do not draw one cent from the lumber company.

4992 Examiner Burchmore: Have you any questions, Judge Cowan?

Mr. Cowan: No.

Mr. Gaughan: How many depot buildings have you?

Mr. Walsh: We have seven.

Mr. Gaughan: What is the character of the construction of those buildings?

Mr. Walsh: Well, they are better than the Iron Mountain and our other connections have got, that is for the same sized town.

Mr. Gaughan: Better than they have got in the towns in which you connect with them?

Mr. Walsh: Yes, sir, and all our agents sign bills of lading and are bonded, and we have no joint employés with any lumber company or anything else.

Mr. Gaughan: In answer to the Examiner's questions about that gravel, do you know that the deed to the land that this gravel comes from is in the name of the railroad company?

Mr. Walsh: No.

Mr. Gaughan: You never have had occasion to look up that title?

Mr. Walsh: No.

Examiner Burchmore: Do you know that it is not?

Mr. Walsh: No.

4993 Examiner Burchmore: Is it on the right of way of the railroad?

Mr. Walsh: One of the pits is located on the Prescott & Northwestern. We go in there and take gravel out.

Examiner Burchmore: Who receives the money for the gravel?

Mr. Walsh: The Memphis, Dallas & Gulf.

Examiner Burchmore: The purchase money?

Mr. Walsh: Yes. And we started to sell that gravel for 27 cents a yard and now we refuse 45 cents for it, because we are going to use it ourselves.

Mr. Gaughan: Do you know whether the amount you received for the gravel was the Arkansas Commission rate on gravel?

Mr. Walsh: No, it was less.

Mr. Coleman: There was one point, you said there was one division of five cents for a haul of a couple of miles?

Mr. Walsh: I did not catch you.

Mr. Coleman: I thought you said you got five cents per 100 pounds for hauling a couple of miles in one case, and then——

Mr. Walsh: No, we get it for a quarter of a mile.

Mr. Coleman: And then there is another case where you get the same division for hauling several miles?

Mr. Walsh: 27 and 41, sometimes we haul it 41 miles and sometimes 27 miles, and sometimes 30 miles.

4994 Mr. Coleman: And that the railroad company has the absolute choice as to the routing?

Mr. Walsh: The shippers let me route all the business.

Mr. Coleman: And that you sent some of it by way of the route where you only got five cents for the 27 miles or 30 mile haul?

Mr. Walsh: Yes, sir.

Mr. Coleman: Why do you do that?

Mr. Walsh: Do you think we want to *get* all our business to one line? What is our other connection going to do?

Mr. Coleman: If you got five cents a hundred pounds for hauling it a quarter of a mile, would it not pay you to do it?

Mr. Walsh: It would pay, but it is not good policy to do it.

Mr. Coleman: Would it take long to tell why it is not good policy?

Mr. Walsh: You ought to know that without my telling you.

Mr. Coleman: I must confess I cannot see why.

Mr. Walsh: We cannot keep friends down at one end if we send all our business out at the other end.

Mr. Coleman: That is the reason, is it?

Mr. Walsh: Yes.

Mr. Coleman: You do not send your own cars off the line,

4995 do you?

Mr. Walsh: No, we pay per diem on anybody's cars that we handle.

Examiner Burchmore: You charge $5.00 per car for hauling logs for the Graysonia-Nashville Lumber Company from any point to Nashville?

Mr. Walsh: Yes, sir, that is our charge, based on that statement.

Examiner Burchmore: That is based on your local freight tariff No. 2?

Mr. Walsh: Yes.

Examiner Burchmore: Or the issue now effective?

Mr. Walsh: Yes, sir.

Examiner Burchmore: I will ask you if that is the rate you charge the general public?

Mr. Walsh: Yes, sir.

Examiner Burchmore: What service do you render the general public for that rate?

Mr. Walsh: From 20 to 40 miles.

Examiner Burchmore: Any service in addition to hauling the logs?

Mr. Walsh: None at all, except furnish the car and load the stuff and haul it to destination point.

4996 Examiner Burchmore: Do you unload the logs at the Nashville mill free?

Mr. Walsh: No, we have nothing to do with them.

Examiner Burchmore: For what length of time has that been your practice, not to unload the logs?

Mr. Walsh: We never did.

Examiner Burchmore: Are you sure that is the fact?

Mr. Walsh: I know it. They have their own train crews and their own locomotives and everything, they have their own cars.

Examiner Burchmore: I thought you hauled it from the junction point?

Mr. Walsh: No, we charge them $5.00 for running over our track.

Examiner Burchmore: Do you charge them as much as you charge the public?

Mr. Walsh: Yes, sir, we discriminate against the lumber company, which is a fact, and they have got a holler coming.

Examiner Burchmore: Have they made any complaint?

Mr. Walsh: Yes, sir, that was the basis of this new contract.

Examiner Burchmore: Your new contract contemplates 50 cents a car?

4997 Mr. Walsh: Yes, sir.

Examiner Burchmore: Will that rate be open to the public?

Mr. Walsh: Yes, sir, it has been quoted to the public, to another man who is coming in there on the same terms.

Examiner Burchmore: Who is general manager of this railroad?

Mr. Walsh: C. C. Henderson.

Examiner Burchmore: Who is traffic manager?

Mr. Walsh: A. C. Ramsey.

Examiner Burchmore: What position does Mr. Ramsey hold, if any, with the Nashville Lumber Company?

Mr. Walsh: He is general manager of the Graysonia-Nashville Lumber Company.

Examiner Burchmore: Does he receive any salary from the railroad?

Mr. Walsh: I do not think he does, no.

Examiner Burchmore: How long have you been operating the Antoine Valley Railroad?

Mr. Walsh: Since the 1st of July.

Examiner Burchmore: How long have you been oyerating the Ultima Thule?

Mr. Walsh: The same time.

Examiner Burchmore: Will you furnish the Commission a statement of tonnage handled over those two branches or divis-

4998 ions, showing the period since the acquisitiion by the Memphis, Dallas & Gulf and as near down to date as possible, and separating that into tonnage with the classes of traffic, that is lumber, merchandise, and so forth, and also into different shippers.

Mr. Walsh: From July to January 1st?

Examiner Burchmore: If you can bring the figures up to January 1st or December 1st, if that is the latest you have.

Mr. Walsh: We can do that, yes, sir.

(Witness excused).

Whereupon, at 5.50 P. M., the hearing in the above matter was adjourned to January 26th, 1911, at 9.30 A. M.

4999 ST. LOUIS, MO., *January* 26, 1911.

Before James S. Harlan, Commissioner.

Other parties as before.

Commissioner Harlan: Gentlemen, it was understood last night that we would hear first this morning the Chairman of the Louisiana State Commission, who wishes to express some view on the general question. Mr. Meredith, will you take the stand.

Mr. Jeffery: At the last hearing your Honor asked for copies of our spur track agreements between the Oak Leaf Lumber Company and the St. Louis, Iron Mountain & Southern, and the Monroe Lumber Company and the St. Louis, Iron Mountain & Southern. I now hand these to the reporter for the purpose of having them incorporated in the record.

(Papers so offered were marked "Filed," as of January 26, 1911.)

Mr. Marble: I should like at this time to enter my appearance as attorney for the Commission in this matter.

5000 Mr. W. M. Barrow: I am requested by the Attorney General of Louisiana to ask if possible whether a ruling can be made at this time on his application for permission to present oral argument at Washington.

Commissioner Harlan: That application was received in Washington, and has been answered. The Attorney General has been notified that the Commission would be glad to hear from him by brief and orally, and perhaps we would like to suggest that we will assign not more than three-quarters of an hour to the Attorney General. It seems in that time he ought to be able to express his views.

J. J. MEREDITH.

Commissioner Harlan: Mr. Meredith, will you state your full name on the record?

Com. Meredith: My name is J. J. Meredith.

Commissioner Harlan: Where do you reside?

Com. Meredith: Columbia, La.

Commissioner Harlan: You are the Chairman of the Railroad Commission of the State of Louisiana?

Commissioner Meredith: Yes.

Commissioner Harlan: How long have you been a member
5001 of that Commission?

Commissioner Meredith: Since December, 1906.

Commissioner Harlan: Prior to that time had you had any special association with railroad matters?

Commissioner Meredith: No, sir.

Commissioner Harlan: Will you be kind enough to state what your business or profession was prior to the time you became a member of the State Railroad Commission?

Commissioner Meredith: Well, I was Sheriff of my parish for 20 years, and I am also intrested in planting.

Commissioner Harlan: What parish was that?

Commissioner Meredith: Caldwell.

Commissioner Harlan: Since becoming a member of the Commission have you had occasion to look into the matter of tap lines in your state or elsewhere?

Commissioner Meredith: Yes, sir.

Commissioner Harlan: If you have any suggestions or views that you desire to express, you may do so.

Commissioner Meredith: Yes, sir. I desire to state that after consultation with the Attorney General of the State of Louisiana who is the legal adviser of our state Railroad Commission, that we decided to enter a formal protest and intervention before this Commission against the cancellation of through rates and divisions be-
5002 tween the trunk lines and the branch lines and the so-called tap lines of the State of Louisiana.

In explanation, the constitution of the State of Louisiana creating the Railroad Commission gives it power to fix just and reasonable rates for the transportation of freight and passengers over the lines of railroad within the State of Louisiana, and to regulate and fix joint and through rates between the trunk lines of the state and the branch lines or short lines of the State of Louisiana. The Supreme Court of the State of Louisiana has defined a railroad or common carrier to be a railroad that has complied with the laws of the State of Louisiana by taking out a charter, by filing schedules and tariffs and otherwise complying with the laws of the State of Louisiana governing railroads and transportation. The statute of the State of Louisiana, No. 195, of the Acts of 1906, makes it the duty of the Railroad Commission of the State of Louisiana to appear before the Interstate Commerce Commission whenever in their judgment there is any matter to be considered affecting the rates of transportation within the State of Louisiana. It has been the policy of the State of Louisiana for some years past to encourage emigration and the investment of capital. This policy has not only been expressed by public
5003 sentiment everywhere, but it has been crystallized in the statutory legislation. Our Legislature passed an act exempting all lines of railroad from taxation that were built within a certain period of time, I believe for the period of ten years; and since that time on the expriation of this time the act has been revivified and the time extended for another period of ten years. The people of the State of Louisiana in various sections of our state have also voted special taxes to different roads as an inducement and an encouragement to build through certain sections of the state. Louisiana has long suffered from the

want of emigration and the investment of capital, and under the laws of our state the Railroad Commission not only deems it wise but their official duty and also their moral duty to lend whatever support and protection they can to the perpetuation of the short lines already built within our state that have complied with the laws of the state of Louisiana governing railroads, and to encourage the building of other railroads in the future. There are various short line railroads against which complaints have been filed before our Commission complaining of the service rendered and the equipment furnished, and our Commission has assumed jurisdiction over these
5004 roads, issued orders at various times which have been complied with, none of which I believe that I can recall at this time have ever been contested. I remember especially in September of 1909 when the great storm swept across the southern portion of the State of Louisiana, it blew down great forests of pine timber which was very valuable to the owners, and the owners of this timber petitioned to the Railroad Commission asking for more equipment and for extended facilities in this emergency in order to utilize the timbers before they should decay and go to destruction from worms and other causes. This complaint was made against the Kentwood, Greensburg & Southwestern Railroad, a short line of railroad connecting with the Illinois Central in the southern part of our state. Some of this timber belonged to local citizens there within the parish, and some of it belonged to non-residents and parties living at a distance. Our Commission issued an order for the extension of side track facilities, for the purchase of more cars and for the quick transportation of this lumber, and the order was complied with.

Commissioner Harlan: You speak of the transportation of lumber. Was it lumber or logs?

Commissioner Meredith: Both lumber and logs: We have
5005 also had application from other short lines of railroad against the service, asking for a change of schedule, asking for better accommodations for passengers, in which we have ordered the company to procure additional equipment and furnish adequate facilities for the business tendered to its line. These orders have been complied with.

We have also had complaints originating from Shreveport and Monroe against the freight rates charged by the Sibley, Lake Bisteneau & Southern Railroad, a short line of railroad leaving the Vicksburg, Shreveport & Pacific Railroad and extending southwest for a distance of some 40 miles. These complaints have been regulated, orders issued and the rates put into effect.

I desire to state further that my statements are intended to be confined to those lines of railroad that have complied with the laws of the State of Louisiana governing railroads and common carriers. I believe that is about all the statement I care to make.

Commissioner Harlan: Are the complaints and orders you refer to preserved in the archives of your Commission?

Commissioner Meredith: Yes, sir.

Commissioner Harlan: And were the orders entered in
5006 connection with the complaints which have been filed since you have been a member of the Commission?

Commissioner Meredith: Yes, sir.

Commissioner Harlan: Are there any questions to be asked?

Mr. Barrow: You have said a good deal about the service and improvement of equipment which has been required by the Railroad Commission of Louisiana. Do you recall any cases other than you have stated, where the Commission has been called upon to fix rates upon other commodities than lumber on these short lines within the state?

Commissioner Meredith: Yes, sir; the case of the Sibley, Lake Bisteneau & Southern was for the transportation of freight other than lumber.

Mr. Barrow: Do you recall the case of the Railroad Commission against the Woodworth & Louisiana Central?

Commissioner Meredith: Yes, sir. The Woodworth & Louisiana Central is a short line of railroad connecting with the Texas & Pacific Railroad some few miles below Alexandria. Complaint was made to the Commission against the rates charged on this road for the transportation of hay. The Commission adjusted that rate satisfactorily to the complainant and to the railroad company, and it was complied with, as can be seen by reference to the records
5007 of the Commission and the order on file.

Mr. Barrow: Have you been called upon since you have been Railroad Commissioner to make inspections of certain short lines to find out whether the facilities for furnishing transportation were adequate?

Commissioner Meredith: Yes.

Mr. Barrow: Have you made such inspections, or will you state what inspections you have made.

Commissioner Meredith: I made an inspection of the short line of railroad connecting with the Kansas City Southern in the Parish of Sabine, La. I do not recall the name of the short line now, the Louisiana Central, I believe, or something like that. I found the conditions pretty bad. There were no adequate facilities for the transportation of either passengers or freight. This matter was also taken up before the Commissioner and an order entered correcting these troubles, requiring the erection of a pagoda and place to take care of the freight and put on a coach for the accommodation of passengers.

Mr. Barrow: Do you recall any case especially in your Railroad Commission history where one short line of railroad has ab-
5008 sorbed another short line of railroad, and they are both now operated as common carriers?

Commissioner Meredith: Yes, sir.

Mr. Barrow: Will you state it?

Commissioner Meredith: The Watkins & Gulf extending from Alexandria to Lake Charles, has been absorbed by the Iron Mountain System, and is now a part of the Iron Mountain System. The Rochelle & Western, a short line of road extending from the Iron Mountain out into the forests some ten or fifteen miles has been absorbed by the Tremont & Gulf, which now connects the Iron Moun-

tain with the Vicksburg, Shreveport & Pacific Railway through a line of about 120 or 125 miles, I believe.

Mr. Barrow: Is there any law governing the Railroad Commission, or any law in the State of Louisiana which you know of, which prevents a lumber company from owning a majority of the capital stock of a railroad company?

Commissioner Meredith: No, sir, none that I know of.

Mr. Barrow: That is all I have to ask, Mr. Commissioner.

Commissioner Harlan: Judge Cowan, have you some questions?

Mr. Cowan: Judge Garwood wants to ask some questions first.

Mr. Garwood: Commissioner Meredith, you have had more or less litigation in Louisiana with trunk lines involving ques-
5009 tions of Louisiana rates, have you not?

Mr. Meredith: Yes, sir, we have had considerable litigation.

Mr. Garwood: I would like to ask you whether or not it is a fact that the trunk lines contend as a rule that it is not profitable for a trunk line to operate what they call tap or short line connections.

Commissioner Meredith: Yes, sir, they have contended that branch lines, as they term them, their own branch lines extending out from the trunk line, are not profitable.

Mr. Garwood: That is by reason of the scales of wages that they pay and what they call constuctive mileage, that is called for under their contract with the various labor organizations.

Commissioner Meredith: Yes, sir.

Mr. Garwood: And the necessity of idle equipment, and so forth, is it not?

Commissioner Meredith: Yes, sir, the expense of operation.

Mr. Garwood: I would ask you, Commissioner Meredith, whether or not from the general lines of construction now of the trunk lines in Louisiana, and the lay of your territory there, whether that state can reasonably expect the construction of other trunk lines in the state?

Commissioner Meredith: No, sir, I do not think that we
5010 can. The most of the trunk lines in the State of Louisiana extend north and south, a distance of some 30, 40 or 50 miles apart, as it may be, almost paralleling each other, and there are very few east and west lines. It leaves a territory in between these lines that is entirely removed from transportation, and that could only hope to be connected up with the trunk lines by intersecting roads running east and west.

Mr. Garwood: Then the only prospect for further railroad development in that state is the construction of short lines making connections with the already existing trunk lines on the ground?

Commissioner Meredith: That is the most reasonable prospect.

Mr. Garwood: I will ask you whether or not it is a fact that the construction of these short lines which assume the obligations of a common carrier and therefore the necessity to accept freight tendered to them from all sources, does not operate directly to the advantage of those who hold small patches of land along them?

Commissioner Meredith: Yes, sir.

Mr. Garwood: Does it not afford them a method of reaching the markets of the world from which otherwise they are entirely cut off?

5011 Commissioner Meredith: Yes, sir, it does.

Mr. Garwood: And it operates to their advantage as well as to the advantage of those holding larger bodies of land?

Commissioner Meredith: Yes, sir.

Mr. Garwood: Both timber and agricultural land?

Commissioner Meredith: Yes, sir, it has materially advanced the price and values of those properties adjacent to these lines.

Mr. Garwood: You are familiar in a general way with the development of the railroads of Louisiana, are you not?

Commissioner Meredith: Well, somewhat, yes, sir.

Mr. Garwood: I would ask you then to state if it is a fact whether or not in numerous cases short line roads that might be generally termed lumber enterprises to begin with, have developed into and become a part of trunk line systems, and if so, enumerate some of the instances.

Commissioner Meredith: Yes, sir. I just now enumerated the Watkins & Gulf, which has become a part of the Iron Mountain System. It was originally a lumber road, principally, its principal tonnage.

Mr. Garwood: How about the Louisiana & Arkansas?

Commissioner Meredith: Well, the Louisiana & Arkansas

5012 is very much a trunk line road now.

Mr. Garwood: What is its length?

Commissioner Meredith: I do not recall just now its length.

Mr. Garwood: It is over 200 miles, is it not?

Commissioner Meredith: Yes, sir.

Commissioner Harlan: Those details are already more or less before the Commision. I do not believe I would pursue that line further.

Mr. Garwood: To some extent and in an indefinite sort of way, perhaps they are.

Commissioner Harlan: The Commission, of course, is aware of the fact that many of these roads have grown into system roads. We might make up an infinite amount of time in developing the facts about each special road.

Mr. Garwood: I wanted to get it in an official way. There is one other road, I know that I have made some inquiry about, the Louisiana & Arkansas myself, but there is another road I want to ask about and see if he knows of any others. I am not as familiar with Louisiana as I ought to be.

Commissioner Harlan: Well, make it as short as you can, please.

Mr. Garwood: How about the Louisiana Railway & Navigation Company?

5013 Commissioner Meredith: Well, the Louisiana Railway & Navigation Company is a trunk line railway of our state.

Mr. Garwood: That runs from Shreveport down to New Orleans?

Commissioner Meredith: Yes, sir.

Mr. Garwood: That was constructed mainly by a gentleman by the name of Elmendorf, was it not?

Commissioner Meredith: Edenborn. And the Arkansas Southern has been taken over by the Rock Island.

Mr. Garwood: Are there any other examples that occur to you of the expansion of these lines into larger lines?

Commissioner Meredith: Well, not at this time. The Arkansas Southern as a log road used to go by the name of "The Arkansas Sorry" until the Rock Island took it over.

Mr. Garwood: It is now part of the Frisco. That is all.

Commissioner Harlan: Judge Cowan, have you some questions?

Mr. Cowan: Yes. Commissioner Meredith, are you Chairman of the Commission of Louisiana?

Commissioner Meredith: Yes, sir.

Mr. Cowan: And I believe, or at least I think I am correct, you filed an intervening petition in this case at the New Orleans hearing?

Commissioner Meredith: Yes, sir.

5014 Mr. Cowan: I assume that your Commission, of course, considered the matter before filing the petition?

Commissioner Meredith: Yes, sir; as stated, we discussed this with our Attorney General who is the legal adviser of the Commission.

Mr. Cowan: I assume that being a public official you are not more interested in the tap lines having divisions than you are in the people and business generally having a fair and equal rate to the markets of the world from the railroads of your state. I am correct in that.

Commissioner Meredith: I have no interest except a general and official interest in the matter representing the shippers.

Mr. Cowan: The point is what your want is for the interest of your state to have a schedule of rates whereby the products of your state may be marketed on favorable and just terms with the rest of the country?

Commissioner Meredith: Yes, sir, and our Commission contends that the divisions with the branch lines, between the trunk lines and branch lines and the denial of a division between the short lines and trunk lines, will create a discrimination in favor of the shippers along the branch lines and against those along the short lines.

5015 Mr. Cowan: If all your people engaged in the lumber business could have an equality in the rates to the markets of the world, removing discrimination against those in other states, would you be satisfied with regard to the question of divisions to the tap lines?

Commissioner Meredith: I do not want you to be under the impression that I am representing the lumber interests; it is the general shipping interests of the State of Louisiana.

Commissioner Harlan: I do not think Judge Cowan is questioning that.

Mr. Cowan: I agree with you, and I am speaking to you as an official. I am assuming you do occupy the position you have just

stated. But occupying that position, and coming to that point, I want then to inquire whether you have considered the effect of the decision that has heretofore been rendered in the Star Grain & Lumber case, on the interests in Louisiana.

Commissioner Meredith: I would have no objection at all to a rate that placed the State of Louisiana on a parity with other states in the shipment of lumber and its other products, provided that rate was just and reasonable. Our Commission considers that the general interest of the people, the consumer who pays the freight, is involved in this question as much so as the shipper himself.

5016 Mr. Cowan: Exactly, and of course, that is so as to all rates on important products in the country.

Commissioner Meredith: On all railroads and all rates, yes, sir.

Mr. Cowan: The interest which you as Commissioner, and when I say you I mean your Commission of course, I do not mean you individually—the interest which you want to represent is simply demanding that you be put on an equality with all the lumber interests which compete with your state in the common markets which each must patronize.

Commissioner Meredith: Well, we do not want to single out lumber. We want to be treated on a parity with all products.

Mr. Cowan: I know that, but of course this is a lumber hearing and I am speaking of the lumber in particular now.

Commissioner Meredith: Well, pardon me just a moment. In answer to that question, we consider that a division of joint rates would be cheaper to the consumer than it would to pay the rate to the trunk line and then the local rate over the short line, and representing the general interest of the country the Commission feels that a division of joint rates would be to the general interest of the country.

Mr. Cowan: I am led to inquire, and I do not mean that by way of criticism, Mr. Meredith, and I hope you will not
5017 consider that I do; it has been shown in the evidence that in the State of Louisiana on local shipments within the State, and I may remark at this time in the record that in the State of Arkansas on local shipments within that State, that neither Commission has provided for through joint rates on tap lines to serve their local consuming interests; and if I remember correctly in all cases, at least so far as I recollect, there is a local rate on the tap lines from the stations where lumber is produced to the trunk line connections, and the local rate from there to whatever point the lumber may be shipped as an intrastate proposition. Now I have asked the question heretofore why the Commissions of Louisiana and Arkansas who favor tap line divisions, have not provided for it as to their state rates. I ask that question of you.

Commissioner Merewith: Our Commission has provided for that. Our rate is the sum of the two locals less ten per cent.

Mr. Cowan: The sum of the two locals less ten per cent?

Commissioner Merewith: Yes, sir, on intrastate business.

Mr. Cowan: But that makes the rate higher from the tap line

station than it does from the trunk line connection. Now why is that? I am led to ask you.

Commissioner Merewith: What is that?

5018 Mr. Cowan: I say that makes the rate higher from the tap line stations leading away from the trunk line than it does from the trunk line stations to a given destination, say New Orleans.

Commissioner Meredith: I am not familiar with that arrangement, or these divisions. There has been an arbitrary arrangement between the companies with which I am not familiar.

Mr. Cowan: I know, but the Commission here is intervening, and so is the State of Arkansas, and they are asking that tap line divisions be kept in, so that the rate from points on tap lines for interstate traffic shall be the blanket rate just the same as it is from the junction point of the tap lines with the trunk line. Now in both states your rate is higher from the tap line station to points in your state, and I am led to inquire why it is.

Commissioner Meredith: The particular condition you inquire of possibly never has come to the attention of the Commission. Those cases are tried on their merits as they come up. The Commission——

Mr. Cowan: But when you file a petition with the Interstate Commerce Commission in which, if I understand, you ask that these tap line divisions be kept in, at least some tap line

5019 divisions so that the rate will be the same from a station on a tap line as it is from the junction point, and at the same time you do not make that arrangement in your own state, I am led to ask why you do not make it within your state if you believe it to be right.

Commissioner Meredith: Well, the matter has never been brought before us.

Mr. Cowan: Well, it ought to have occurred to you——

Mr. Barrow: I would like to object to the statement that we do not make that arrangement within the state, because the records of the state show we do.

Commissioner Harlan: What do you understand the arrangement is?

Mr. Barrow: The arrangement is 10 per cent less than the sum of the locals only applies in the absence of through rates being fixed.

Commissioner Harlan: Do you understand the rate from the junction point on state shipments in many cases extends to the end of the tap lines?

Mr. Barrow: Yes, sir, the tariffs on file with the Commission of Louisiana will show that to be the fact; that there are cases where the same rate applies to points out on the tap line as apply

5020 to the junction point, and not only that, but the records of the Commission will show the same rate applies frequently to a point on a branch line as applies to the junction point of the tap

line. I simply object because counsel seems to have that opinion very strongly——

Mr. Cowan: I do not think that is an objection. I am trying to get at the facts, and I think it is important. Here is a Commission which files an intervening petition——

Mr. Barrow: If you will permit us to file evidence on the subject——

Commissioner Harlan: What is the arrangement with respect to the Kentwood Road?

Mr. Barrow: The Kentwood, Greensburg & Southeastern carries two lines of tariffs, a distance tariff and a line of commodity rates. The distance tariff will apply in the absence of a commodity tariff on joint through shipments. The rule of the Commission is that ten per cent shall be deducted from that rate. Where a commodity rate has been established, however, the division——

Commissioner Harlan: Confine your observations to lumber, that is what we want to know.

Mr. Barrow: We have no specified rule in the State of Louisiana which applies to lumber. Our rule applies to all
5021 commodities.

Commissioner Harlan: But the Chairman of the Commission has just stated that on that road the local to the junction and the local from the junction is assessed on lumber with ten per cent off. Now that is not certainly applying one rate from the tap line point and the junction point.

Mr. Barrow: That is a fact, and that is true in the absence of an established commodity rate.

Commissioner Harlan: What is the general basis of lumber rates in Louisiana?

Mr. Barrow: There is no general basis. If there is an established commodity rate it prevails and the divisions are fixed by the two lines. In the absence of an established commodity rate the Commission has fixed a rule that ten per cent less than the mileage rate shall apply. For instance, in making a joint through rate from a point on the Kentwood, Greensburg & Southeastern to New Orleans, if there were a commodity rate from Kentwood on the Illinois Central and a mileage rate on the Kentwood, Greensburg & Southeastern, these two rates would be added together and ten per cent would be deducted from the mileage rate. It would not make any difference which road it applied to. But if a through
5022 rate had been established from a point on the Kentwood, Greensburg & Southeastern, the lines would be allowed to divide that according to their percentage arrangements.

Mr. Cowan: I would like to have the witness tell what the arrangement is, because he is Chairman of the Commission.

Commissioner Harlan: Very well, put your question.

Mr. Cowan: I want to know why the Louisiana Commission does not make a rule which gives the same rate from a station on the tap line to a man who has a saw mill there, and there are numbers of them which have been shown in evidence here, to New Orleans, that the man gets from the junction point on that tap line on the

trunk line to New Orleans. I think you should be able to explain that because you have——

Mr. Garwood: I do not think counsel should admonish the witness.

Commissioner Harlan: I do not think that was the intention.

Mr. Cowan: I assume the best of faith, and I want to say now I do not criticise the act of the Commission, but I wish to draw out the point that it is inconsistent, that they do not make such rates on intrastate business.

Commissioner Harlan: Can you answer the question, Mr. Commissioner?

5023 Commissioner Meredith: Well, sir, it is because those rates and divisions heretofore have been amicably arranged between the tap lines and trunk lines, and they have never been brought to the attention and investigation of the Commission, and our general rule applies; we have nothing but the general rule.

Mr. Cowan: If as I assume it to be the case, the object of the Railroad Commission is to do the best for the public interests, and that demands the maintenance of tap line divisions on interstate rates, why does not that same public interest demand the maintenance or establishment of the same sort of divisions as to the state rates on intrastate traffic.

Commissioner Meredith: I think the principle is the same.

Mr. Cowan: And the Commission has never acted in that matter?

Commissioner Meredith: No, sir.

Mr. Cowan: Has there ever been an application to the Commission to do so?

Commissioner Meredith: I do not recall any at this time, no, sir.

Mr. Cowan: For that reason, therefore, did the Louisiana Commision file this petition here asking the Interstate Commerce Commission to adopt a system which the Louisiana Commission had not then adopted as to state business.

5024 Commissioner Meredith: Because there were amicable arrangements existing between the lines that were satisfactory in the division of rates and tariffs.

Mr. Cowan: Suppose the trunk line rates on interstate traffic should be reduced, and the tap line divisions cancelled, and that the Interstate Commerce Commission should put in a differential higher from the tap line stations than now prevails in Louisiana, and as a result the sum total of the transportation charge to interstate destination was not greater than it is today, would that satisfy the Louisiana Commission?

Commissioner Meredith: All the Louisiana Commission asks is to be placed on a parity in the transportation of lumber and all other products over these roads that have been recognized as common carriers.

Mr. Cowan: Now in recognizing them as common carriers in Louisiana you have not extended through rates and divisions so that the rate would be the same from a tap line station as from the junction point. Suppose the Interstate Commerce Commission adopts the present system in Louisiana as to the interstate rates: Now are the

people of Louisiana thereby satisfied if the total charge is not
5025 greater than it is today, I mean the total revenue paid out.

Commissioner Meredith: I could not answer it, it would be a matter of opinion as to the people.

Mr. Cowan: Well, the Commission then, put it, the Louisiana Railroad Commission representing the people.

Commissioner Meredith: I suppose they would be.

Mr. Cowan: Mr. Meredith, we have had a good deal of trouble in trying to get some maps. No doubt you are perfectly willing to furnish them, but I would be very glad if you could furnish a fair supply of maps, the very excellent map of your state.

Commissioner Meredith: What is that?

Mr. Cowan: The map which you published.

Commissioner Meredith: Yes, sir. We have one to file here in evidence.

Mr. Cowan: I know that, but the difficulty is a lot of us are not able to get access to the file, and we would be glad to have a copy for our file.

Commissioner Meredith: We would be glad to present one to whoever wants it.

Mr. Cowan: I am much obliged to you. It is a very ex-
5026 cellent map. Now there has been a good deal of testimony that the Louisiana Commission had recognized the existence of these roads as railroads, and I am led to inquire what the Louisiana Commission has ever done and what it has a legal right to do in recognizing a tap line or a lumber road as a common carrier. I think that ought to be explained here by you.

Commissioner Meredith: I think I explained that in my statement, that we had exercised jurisdiction by fixing freight rates and regulating the service, and that these roads had been defined and recognized as common carriers by the Supreme Court of our state, and that the constitution gave us power.

Mr. Cowen: I understand. Now what railroads operating trains and engines in hauling logs to saw mills and which of necessity haul the logs in and the necessities of life, have not been recognized by the Commission?

Commissioner Meredith: That is a matter of record. I cannot answer from memory.

Mr. Cowan: Do you know if there are any?

Commissioner Meredith: Yes, sir, there are some. Our records will show those that have been recognized and that have complied with the law by filing charters, tariffs and schedules.

5027 Mr. Cowan: What do they have to do in order to be recognized?

Commissioner Meredith: They would have to take out a charter under the laws of the State of Louisiana. They would have to provide equipment and to issue tariff sheets and schedules holding themselves out to the public as common carriers.

Mr. Cowan: I suppose the Commission is acquainted with the fact that there is practically no public except the public connected

with the saw mill interests in a good many cases, which could be served by the lumber roads entering the forests.

Commissioner Meredith: In some instances there are, yes, sir.

Commissioner Harlan: Well, in those instances do you recognize such a road as a common carrier, where they have taken out a charter?

Commissioner Meredith: There are some of those roads that have not complied and have not taken out charters.

Commissioner Harlan: Suppose they have taken out a charter and have done other things required by your law, but there is no public there other than the lumber interests which own the road.

5028 Commissioner Meredith: We have never had occasion to pass upon that. We have never had a situation of that kind presented. They would have to provide passenger coaches and equipment, and publish——

Commissioner Harlan: Is that essential under your law to secure recognition from your Commission that there must be passenger coaches?

Commissioner Meredith: I think so, yes, sir.

Mr. Cowan: Have you a law in Louisiana which requires separate compartments for white people and negroes.

Commissioner Meredith: Yes, sir.

Mr. Cowan: Don't you know it to be a fact that a large number of these roads which have taken out charters and filed tariffs, and so on, and who are recognized or claim they are by your Commission, only provide one coach, which is a combination, having half the coach or such a matter for passengers both white and colored, without any separation.

Commissioner Meredith: I do not know of any short line—I know of instances of that kind that have come before our Commission. At one time we placed a fine of $2,000 for not providing separate equipment for the accommodation of black and white.

5029 Mr. Cowan: Have you made an investigation to find out to what extent the saw mill interests in Louisiana get divisions on the interstate rates, and to what extent they do not, so that you might answer the question to what extent does your lumber pay the trunk line rate and to what extent does it pay that less a division to the tap line.

Commissioner Meredith: No, sir. As I stated, that is a matter of detail that has been settled between the lines themselves.

Mr. Cowan: Well, that has not been settled. I am talking about the volume of the traffic.

Commissioner Meredith: And what was the question?

Mr. Cowan: I am talking about the volume of traffic.

Commissioner Harlan: State your question.

(Question repeated.)

Commissioner Meredith: I think the records of the Commission show the per cent in volume of business the lumber business covers; about 60 per cent of the volume on some of the roads.

Mr. Cowan: That is total tonnage?

Commissioner Meredith: Yes, sir.

Mr. Cowan: Of that 60 per cent of lumber, some people get divisions of the rates, and some people get five cents and some get two cents and some get none. Now I want to know how much
5030 of the lumber produced in Louisiana does not get any division and therefore has to pay the trunk line rate up to destination.

Commissioner Meredith: I could not answer that.

Mr. Cowan: Well now, Mr. Meredith, if the transportation cost should be adjusted on a fair basis, ought not all to get the reduction of the rate or not get it, in which latter case you could reduce the trunk line rate.

Commissioner Meredith: Ought not all the short lines?

Mr. Cowan: No, the lines, the mills, the man that makes the lumber, ought not all who are investing in the lumber business get the reduction on an equality or not get it, and in which latter case the trunk line rates should be reduced to make up for the tap line division.

Commissioner Meredith: I do not think that those who have failed to comply with the law governing common carriers are entitled to them.

Mr. Cowan: Comply with what law?

Commissioner Meredith: Of the State of Louisiana.

Mr. Cowan: Anybody can do that who has got a railroad, as I understand.

Commissioner Meredith: Some have not done it, though.
5031 Mr. Cowan: What ones? Have you in mind some that have not?

Commissioner Meredith: No, I do not recall now, but the records will show.

Mr. Cowan: Can a man stay in the lumber business with a tap line serving his saw mill which receives no division in competition with a man who gets a division of five cents per 100 pounds?

Commissioner Meredith: That is a matter of opinion.

Mr. Barrow: I think we can save a few questions by stating that we have prepared a statement which we expect to file, showing the lines recognized as common carriers.

Mr. Cowan: But those who have not been recognized may yet be getting a division on the interstate rates.

Commissioner Harlan: The last question goes to a different point.

(Question repeated.)

Mr. Cowan: I mean a man who does not get any division, can he stay in business in comparison or competition with the man who gets five cents per 100 pounds?

Commissioner Meredith: He might stay in awhile, but I would not think it is a good business proposition.

Mr. Cowan: That is quite manifest. What you want for
5032 the Commission of Louisiana is a fair adjustment which will serve the public interests of Louisiana.

Commissioner Meredith: That is all.

Mr. Cowan: And whatever will do that is all you are asking for.

Commissioner Meredith: Yes, sir.

Mr. Cowan: You are not asking that the interstate rates be made on a basis for the purpose of development of the agricultural and other industries of Louisiana aside from fair rates?

Commissioner Meredith: No, sir, not at a sacrifice.

Mr. Cowan: That is all.

Mr. Garwood: Counsel asked you the question if a lumberman who got no division of a rate could stay in competition very long with another lumber man who got a five cent division of the rate, and your answer to that self-evident proposition was that you did not suppose he could very long. But suppose that the lumberman who got a division in the way that counsel states it, got it as the owner of a railroad which demanded a large investment which he must carry with the coincident risks and governmental obligations which in a great many cases produces little or no profit,
5033 would he be at any serious advantage over the man that Mr. Cowan speaks of.

Commissioner Meredith: Well, I think there would be a compensating effect.

Mr. Garwood: Now, Louisiana is a lumber producing state rather than a lumber consuming state, is it not?

Commissioner Meredith: Yes, sir.

Mr. Garwood: Most every line in Louisiana has its own mills.

Commissioner Meredith: Yes, sir.

Commissioner Harlan: Do you mean most every mill in Louisiana has its own line?

Mr. Garwood: I mean by that, not in the sense of ownership, but there are lumber mills situated on every line. I did not apprehend that the question would be misunderstood.

Commissioner Harlan: I do not know that I did misunderstand it. Can you answer that question, Mr. Chairman?

Commissioner Meredith: What is the question?

Mr. Garwood: I say almost every line of railroad in Louisiana, has mills situated up and down it. As I understand the rate situation, the general basis of the rate is the sum of the locals less ten per cent, but on application through rates are made and the divisions are usually amicably adjusted between the carriers.

5034 Commissioner Meredith: Yes, sir.

Mr. Garwod: That is the situation?

Commissioner Meredith: Yes.

Mr. Garwood: There are through intrastate rates in Louisiana, although there is not much intrastate shipping between lines in Louisiana.

Commissioner Meredith: Yes, sir. The state is a lumber producing state rather than consuming. I think our records show about 60 per cent of the tonnage is lumber.

Mr Marble: Mr. Commissioner, does your law forbid discrimination?

Commissioner Meredith: Yes.

Mr. Marble: Does it forbid rebating?

Commissioner Meredith: Well, it forbids discrimination, and rebating I suppose, too.

Mr. Marble: Are the rates filed with you?

Commissioner Meredith: Yes, sir.

Mr. Marble: And is a departure from that rate which is filed with you an offence under the laws of Louisiana?

Commissioner Meredith: Yes, sir, subject to fine.

Mr. Marble: Are you enforcing that portion of the law?

Commissioner Meredith: Yes, sir.

Mr. Marble: Have you had any prosecutions under it?

5035 Commissioner Meredith: Yes, sir, we have imposed fines for violation of our rules and regulations.

Mr. Marble: So you do stand by the policy of the Act to Regulate Commerce, that there shall not be discrimination?

Commissioner Meredith: Yes, sir.

Mr. Marble: I have in mind a rather extreme case of a tap line in which the main line carrier practically runs past the pile of lumber on one side and the track belonging to the mill runs past it on the other side, and then runs up perhaps half a mile to a connection with the main line carrier's track. Would you say that in that case a joint rate should be made from the side of the pile of lumber which is on the mill track.

Commissioner Meredith: No, sir.

Mr. Marble: You would not allow such a thing as that?

Commissioner Meredith: No; in fact we are called upon to regulate that where there was a charge being made.

Mr. Marble: Supposing that mill track had complied with all the requirements of the State of Louisiana made for common carriers, would that make any difference

Commissioner Meredith: No.

Mr. Marble: Not at all. Why would you not allow it in that case?

5036 Commissioner Meredith: Because we would not consider that the service had been rendered: it is a mere side track right adjacent to the trunk line; no service commensurate with anything further than a switching charge.

Mr. Marble: You have spoken of the arrangement for the charging of the sum of the two locals less ten per cent. How high do your lumber rates run in Louisiana, what is your average haul and your average rate.

Commissioner Meredith: Our average rate is about seven cents per 100 pounds, I believe.

Mr. Marble: Would that seven cents be the sum of the two locals?

Commissioner Meredith: No, that is the local rate.

Mr. Marble: And that is the local rate upon the trunk line railroad

Commissioner Meredith: Yes, or any other road.

Mr Marble: What rates do your mill lines publish as their local rates, about how much?

Commissioner Meredith: We will assess them the same, they are governed by the same rates that our trunk lines are.

Mr. Marble: Seven cent rate

Commissioner Meredith: I do not recall.

5037 Mr. Marble: Could they have a seven cent rate for a haul one mile in length?

Commissioner Meredith: No, sir. As I say, we would not treat that as a haul; it would be a mere switching charge.

Mr. Marble: How much on the average would be published for a switching service one or two miles in length?

Commissioner Meredith: It might range from $2.50 to $3.00.

Mr. Marble: Per car?

Commissioner Meredith: Yes, sir.

Mr. Marble: Then you would take the $2.50 rate and the seven cent rate, which on a 50,000 pound shipment of lumber would be say $35.00, and that would make the sum of the locals $37.50 for the 50,000 pound car; then you would subtract ten per cent from that to get the rate from the point on the short line to the point on the main line, is that right?

Commissioner Meredith: No, sir, that would not be treated as a joint rate at all.

Mr. Marble: You spoke of an arrangement of the sum of the two locals less ten per cent being the rate from the point on the mill road to the point on the trunk line.

Commissioner Meredith: Yes, sir, but that would be a mere subterfuge, that would not be considered a haul, it would be a switching charge.

5038 Mr. Marble: You would add that switching charge to the main line rate?

Commissioner Meredith: Yes, sir.

Mr. Marble: Why do you not compel the main line to absorb that switching charge for one and a half or two miles?

Commissioner Meredith: We have never been called upon to pass on that.

Mr. Marble: Suppose the haul were three miles, would you call it a switching charge still?

Commissioner Meredith: It would depend on the merits in each case, and the location of the movement, and so on. In some places it might be called a switching charge, and in others it might not be.

Mr. Marble: Suppose it were out in the open country and outside of any incorporated municipality, would you call it a line service or a switching charge?

Commissioner Meredith: The Commission has never fixed any switching points for that character of service.

Mr. Marble: At what point or distance from the main line track does this sum of the two locals less ten per cent arrangement begin to appear. Recall one typical instance, please. I want to talk about it for a minute.

5039 Commissioner Meredith: I could not recall any particular place. I could name the roads on which those rates obtained.

Mr. Marble: You could not?

Commissioner Meredith: I could, I say; but as for any fixed distances, the Commission has never regulated that.

Mr. Marble: You never have regulated that?

Commissioner Meredith: Not the switching limits, you might term it. They have been adjusted between the companies on a basis of from about $2.50 to about $5.00 up to three to five miles.

Mr. Marble: Per car?

Commissioner Meredith: Yes, sir.

Mr. Marble: Do you regard that as a fair compensation for the mill road's haul?

Commissioner Meredith: For a service of that nature.

Mr. Marble: Does that result in a rate from the point on the mill road higher than the rate from the junction point of the two roads?

Mr. Meredith: Yes, sir.

Mr. Marble: Or lower?

Commissioner Meredith: It would increase the rate of the trunk line that much.

5040 Mr. Marble: You do not mean that, do you? It would decrease the rate of the trunk line, would it not? I see what you mean, it would make an addition to the rate of the trunk line from the junction point?

Commissioner Meredith: Yes, sir, it would increase the charge.

Mr. Marble: Can you name any instance where such a rate is, and tell us the amount of that increase in the rate?

Commissioner Meredith: No, I do not recall. The records are the best evidence.

Mr. Marble: You do not know whether it is one, two, three or five dollars increase per car over the rate from the junction?

Commissioner Meredith: I could not answer from memory.

Mr. Marble: Do you know whether or not after that increase has been made in the rate, the ten per cent reduction—well, you do know it reduces the earnings of the trunk line, do you not?

Commissioner Meredith: Yes, sir.

Mr. Marble: Somewhat below the rate of the junction?

Commissioner Meredith: Yes.

5041 Mr. Marble: That is to say, this ten per cent reduction from the sum of the two rates is entirely borne by the trunk line under your arrangement, is it?

Commissioner Meredith: No, sir, it is not intended to be that way. It is a matter that has been adjusted between the companies.

Mr. Marble: Do you regulate that adjustment?

Commissioner Meredith: That is our general rule, the sum of the two locals less ten per cent. We do not regulate the adjustment between the companies.

Mr. Marble: Have you made any arrangement as to which of the two companies should bear the ten per cent?

Commissioner Meredith: No, I do not recall any.

Mr. Marble: No such case has come before you?

Commissioner Meredith: No.

Mr. Marble: Let me ask you just as a matter of advice to the Commission, it is a matter of record here that some roads in your state get two cents per 100 pounds out of the joint rate as the allowance to the mill road. Supposing that two cents per 100 pounds were

increased to four cents, would you regard that as something which you should inquire into if it took place on a state haul, the carriers being agreed between them that it should be done?

Commissioner Meredith: If there was no complaint I should
5042 not think it would be incumbent upon the Commission to investigate it.

Mr. Marble: Suppose it were increased to six cents per 100 pounds?

Commissioner Meredith: If the carriers were satisfied with the conditions?

Mr. Marble: If the carriers, the mill road, and the trunk line seemed to be satisfied, and nobody complained, you would not concern yourselves about it?

Commissioner Meredith: Not so long as the rate as a whole was reasonable.

Mr. Marble: Supposing there were a mill at the junction paying the main line rates, and that the short road was owned by the mill shipping lumber over it, would that situation concern you?

Commissioner Meredith: Why yes, if there was a division there and the mill located on the trunk line of railroad, it would not be entitled to any division at all.

Mr. Marble: The mill on the trunk line would not be entitled to any division at all?

Commissioner Meredith: No.

Mr. Marble: But the mill owning the short line would be entitled to a division in your view?

5043 Mr. Walter: You do not mean the mill.

Mr. Marble: Well, let us say the combined industry. This is a case where the mill owns the railroad.

Commissioner Meredith: The short line of railroad having complied with the laws regulating common carriers would be entitled under our regulations to divisons.

Mr. Marble: And if that division were doubled some night you would not think that was a matter of any public concern whatever?

Commissioner Meredith: So long as the rate was reasonable and the companies between themselves did not complain, the Commission would take no cognizance of it.

Mr. Marble: You have spoken of the operation of these mill lines not being profitable or practicable for the trunk lines. Do you know of any case in which trunk lines have offered to build such lines, and the mills have declined and have built their own line in order to get divisions of the rates.

Commissioner Meredith: I do not.

Mr. Marble: Was the St. Louis, Watkins & Gulf built by lumber interests?

Commissioner Meredith: I think so.

Mr. Marble: Or by sugar interests?

Commissioner Meredith: Lumber interests, as I understand it.

5044 Mr. Garwood: In that connection I would like to ask if the first railroads in Louisiana were not built by the planters who tapped the steamboats in order to get their stuff out to the markets?

Commissioner Meredith: We have some railroads in the state built by planters.

Mr. Cowan: I would like to ask in such cases if the policy of the Louisiana Commission has been any different in regard to granting tap line divisions than it is today?

Mr. Garwood: They did not have any Commission then.

Mr. Cowan: I know they did not, and they did not have any tap line divisions. I was just emphasizing that point.

Commissioner Meredith: I am not familiar with it.

Commissioner Harlan: I would like to ask one question as to the application of your rate. I have here a list of a good many tap lines where the mill is within a matter of a few hundred feet of the main line of a regular carrier. Now in such a case, as I understand it, you would regard the movement of the manufactured lumber from the mill to the regular carrier as a mere switching movement.

Commissioner Meredith: Our Commission has so treated it, yes, sir.

Commissioner Harlan: What has been the attitude of your
5045 Commission with respect to the movement of the logs from out in the forest, say four, five or six miles, up to the mill, is that regarded as a movement by a common carrier under a state rate, or a movement by the plant of its own property to its own mill?

Commissioner Meredith: Well, the Commission has never been called upon to pass upon a condition of that kind that I can recall.

Commissioner Harlan: So your Commission has no——

Commissioner Meredith: No record that I recall.

Commissioner Harlan: No attitude with respect to the movement of logs to the mill?

Commissioner Meredith: None that I recall.

Mr. Barrow: Has not the Commission fixed milling in transit rates in the State of Louisiana?

Commissioner Meredith: Yes, sir.

Mr. Barrow: On main lines?

Commissioner Meredith: Yes, sir, they have provided for that.

Mr. Barrow: Do you recall on what commodities or some special instances?

Commissioner Meredith: Well, we have fixed it, I believe, on lumber and grain products, cottonseed and corn.

5046 Mr. Barrow: Have you fixed it on sugar cane moving from the fields to the mill?

Commissioner Meredith: Yes, sir.

Mr. Barrow: Is it not the general policy of the Railroad Commission of Louisiana to fix milling in transit rates wherever there is a reasonable demand for it?

Commissioner Meredith: Yes, sir, wherever the conditions require it.

Mr. Barrow: What would be the effect of the cancellation of these divisions on the rates on lumber?

Commissioner Meredith: Well, I should think that it would spoil the milling in transit rate.

Mr. Barrow: Would it make advances or reductions in the present rates which are paid on lumber?

Commissioner Meredith: It would make advances, I should think.

Mr. Barrow: From the tap line points, I speak of, to the connecting road points.

Commissioner Meredith: The Commission considers it would make advances, that the local rate would exceed the rate now obtained through a division.

Mr. Barrow: Has the State of Louisiana taken any active
5047 steps to secure reductions in interstate and intrastate rates that you know of?

Commissioner Meredith: Well, through the regulation by the Commission.

Mr. Barrow: Well, do you know of any action taken by the last Legislature to present cases to the Interstate Commerce Commission, special cases?

Commissioner Meredith: Yes, by the last Legislature there was an appropriation, I believe, of $15,000.

Commissioner Harlan: What is the relevancy of that question?

Mr. Barrow: I simply want to show that the State of Louisiana is interested in securing as low rates as possible and are opposed to any advances, and I do not think our people are in a position to stand them, and that this means an advance on all traffic to and from tap line points.

Commissioner Harlan: What means an advance?

Mr. Barrow: The cancelling of the divisions.

Commissioner Harlan: It would not be an advance if the lumber rates were at the same time reduced?

Mr. Barrow: No.

Commissioner Harlan: Well, we need not go back into that.

Mr. Barrow: Just one more question. When the railroad Com-
5048 mission's rate in the state of Louisiana is applied from the junction point, and the switching charge is paid from the junction point, is the full rate applied or is there a deduction made in that rate from the junction point on the main line.

Commissioner Meredith: No deduction where there is just a switching charge.

Mr. Barrow: I am speaking of the rate on the main line. You say the switching charge from the mill to the main line is $2.50. Now, from the main line point to destination in the State of Louisiana would the main line collect its full rate or its rate less ten per cent?

Commissioner Meredith: We have some instances where the switching charge is absorbed by the main line.

Mr. Barrow: Well, where it is not absorbed.

Commissioner Meredith: I do not recall just now.

Mr. Barrow: Well, you recall the rule of the Commission which says on all through shipments ten per cent less shall apply?

Commissioner Meredith: Yes.

Mr. Barrow: That rule would be applied on shipments of that character?

Commissioner Meredith: It should be, I think.

5049 Mr. Barrow: If there is a discrimination in favor of the tap line shipper by giving him a division of the through rate, could not that discrimination be eliminated by reducing the rates on lumber from other main line points so as not to exceed the main line's proportion of the through rates from the junction point.

Commissioner Meredith: What was that question?

Mr. Barrow: If there is discrimination in favor of the tap line shipper by allowing him a division of the through rate, could not that discrimination be eliminated by fixing the same rate from other points on the same line as the main line railroad receives as its proportion of the through rate from the junction point.

Commissioner Meredith: I should think so.

Mr. Marble: That last suggestion would be perfectly satisfactory to you, would it not?

Commissioner Meredith: Yes, sir.

Mr. Jeffery: I do not know whether it would be satisfactory to the railroads.

Mr. Marble: Of course, if these divisions of rates from points on the tap lines were cancelled, it would not increase the rates from points on the main line nor from points on the lines which are

5050 not receiving the allowances; it would only increase the rates from points on the tap lines which are receiving allowances now. That is true, of course.

Commissioner Meredith: I think so.

Mr. Marble: I am told that this is a case which has been discussed in the previous testimony. In case the lumber company owns the track and leases it to the railroad company is there any power in your Commission upon the completion of the lumbering operations to prevent the cancellations of that lease and the retirement from common carrier business of the railroad which has been operating the leased track?

Commissioner Meredith: No, sir, none that I know of.

Mr. Marble: What is your theory of the interest which moves the owners of these mill lines to incorporate as common carriers if the burdens of compliance with the law are so great as you have said? Why do they not do like some of your other lines have done, remain as mere private or plant facilities and escape those burdens?

Commissioner Meredith: I think he conforms with the law governing common carriers to protect himself against the expense of building his road out to the main line.

Mr Marble: The expense of what?

Commissioner Meredith: Building his railroad out to the main line.

5051 Mr. Marble: Building his railroad up to the main line?

Commissioner Meredith: Yes, sir; the short line railroad.

Mr. Marble: Well, he has built his track. Now why does he incorporate as a common carrier if the burdens are so great?

Commissioner Meredith: In order to save himself the expense, or to compensate himself for money expended in building a road to reach the trunk line.

Mr. Marble: By getting these divisions of rates?

Commissioner Meredith: Yes, sir; which would be paid to a branch line in case the trunk line built down there.

Commissioner Harlan: I understand your Commission desires only an equal opportunity for the lumber of Louisiana in the common markets.

Commissioner Meredith: That is all.

Commissioner Harlan: You do not desire any special advantage for your people?

Commissioner Meredith: No.

Commissioner Harlan: Do you recognize that one lumber interest does have an advantage where, having built a tap line and incorporated it, it gets a substantial division as compared with another lumber interest which has built a tap line, but has not incorporated it and gets no division.

5052 Commissioner Meredith: Yes, I think——

Commissioner Harlan: If you were told that there are altogether approximately 730 lumber companies that have built tap lines and have incorporated them and get divisions, and *and* that there are approximately 1478 lumber companies that have built tap lines and have not incorporated them and get no divisions, does it occur to you that the former would have an advantage over the latter in competing in the general lumber market?

Commissioner Meredith: I think the one would have the advantage over the other.

Mr. Marble: This map which you have presented, up to what date is that corrected?

Commissioner Meredith: It is for the last year, I believe. The date is there on it.

Mr. Marble: Have you been careful to show all the common carriers in your state on this map?

Commissioner Meredith: I think they are all there, yes, sir.

Mr. Barrow: We desire to file a copy of this, which is the official map.

(The map so offered was received and marked "Filed" as of January 25, 1911.)

5053 Mr. Barrow: And also a statement showing a list of the lines which have been recognized by the Railroad Commission as common carriers.

(The statement so offered was received and marked "Filed" as of January 25, 1911.)

Commissioner Harlan: Have applications been made to your Commission by tap lines for recognition, which have been refused?

Commissioner Meredith: None that I know of, Judge.

Mr. Barrow: I desire to file a copy of the Eleventh Annual Report of the Railroad Commission with its rules and regulations, and the laws governing it.

Commissioner Harlan: I think the annual report may be considered as filed. It is on file with the Commission.

Mr. Barrow: I desire to file a statement attached to our petition of intervention.

Commissioner Harlan: That need not be filed, if it is attached to the petition.

Mr. Cowan: For the purpose of the record, I desire to ask Mr. Barrow, you are Attorney General of the state, and Secretary of the Commission?

Mr. Barrow: I am at present Secretary of the Commission.
5054 I am representing the Commission in this case.

Commissioner Harlan: We will next call the Mansfield Railway & Transportation Company.

Mr. Mehaffy: If your Honor please, we have the Chairman of the Arkansas Commission here, and he would like to make a statement.

Commissioner Harlan: I am sorry you did not mention that sooner. We have set these cases for today, but before the conclusion of the hearing we will give you an opportunity to be heard.

Mr. Mehaffy: I do not think it will take but a little while.

Mr. Walter: We are perfectly willing to waive our rights to go ahead at this time, and yield to the Arkansas Commission.

Commissioner Harlan: I think the easiest course is to pursue the regular order.

5055 *Mansfield Railway & Transportation Company.*

E. A. Frost was called as a witness, and having been duly sworn, testified as follows:

Commissioner Harlan: Give your name to the reporter.

Mr. Frost: E. A. Frost.

Commissioner Harlan: Where do you reside?

Mr. Frost: Shreveport.

Commissioner Harlan: In the State of Louisiana?

Mr. Frost: Yes, sir.

Commissioner Harlan: What is your business?

Mr. Frost: Well, I am in the lumber business and railroad business right now.

Commissioner Harlan: With what lumber concern are you connected and in what capacity?

Mr. Frost: I am connected with the Frost-Johnson Lumber Company, President.

Commissioner Harlan: Is that an incorporated company?

Mr. Frost: Under the laws of Missouri.

Commissioner Harlan: How long have you been conducting lumbering operations?

Mr. Frost: Well, it was incorporated about four years ago
5056 and the capital was increased about three years ago in the summer.

Commissioner Harlan: When incorporated did it succeed some partnership or other association?

Mr. Frost: The original corporation?

Commissioner Harlan: Yes.

Mr. Frost: No.

Commissioner Harlan: Where is the Frost-Johnson Lumber Company conducting operations?

Mr. Frost: Well, we have seven plants.

Commissioner Harlan: Just hastily tell us about them.

Mr. Frost: One at Nacogdoches, Texas; Mansfield, La.; Noble, La.; Montrose, La.; Campti, La.; Alden Bridge, and we control the Union Saw Mill Company at Huttig, Ark. We own the stock of that company.

Commissioner Harlan: Do you control partly or wholly any other lumbering interests than those you have named?

Mr. Frost: We have a tract of timber in Livingston Parish, but we are not operating it.

Commissioner Harlan: Are you connected directly or indirectly with any other lumber companies except those named?

Mr. Frost: You mean the——

5057 Commissioner Harlan: The Frost-Johnson Lumber Company.

Mr. Frost: No, they have no other. I have named all their different interests.

Commissioner Harlan: Do you own any bonds issued by any other lumbering companies?

Mr. Frost: No, sir.

Commissioner Harlan: Has the Frost-Johnson Lumber Company a mill at each one of the operations you have named, except the last one, which is not being operated by you?

Mr. Frost: Yes, sir, we have.

Commissioner Harlan: Does the Frost-Johnson Company also own lumber forests at these various points?

Mr. Frost: Yes, sir.

Commissioner Harlan: State what is the aggregate holding in acreage by the Frost-Johnson Lumber Company at all these places?

Mr. Frost: The total acreage?

Commissioner Harlan: The total acreage.

Mr. Frost: I could not tell that accurately; I think it is about 325,000 acres of land, and that includes a good deal of denuded land, of course. I could not tell just how much timber land we have left,

5058 but I think our total acreage of land is in the neighborhood of 300,000 acres; that includes timber land where we own the fee to the land and timber rights.

Commissioner Harlan: And what is your annual output from all the mills?

Mr. Frost: We shipped 183,000,000 feet last year.

Commissioner Harlan: How many carloads was that?

Mr. Frost: I don't remember; I can get it though, today.

Commissioner Harlan: If you will. And is all of your lumber pine?

Mr. Frost: Well, we do not manufacture very much oak. Now and then we will cut a little oak, but we are yellow pine operators, and it is practically all yellow pine lumber.

Commissioner Harlan: And you are one of the larger operators are you not, in this country?

Mr. Frost: Well, there are quite a number down there that are a good deal larger than our company.

Commissioner Harlan: And you actively compete in all the yellow pine markets?

Mr. Frost: Yes, sir.

Commissioner Harlan: What of these lumbering operations does the Frost-Johnson Lumber Company own and operate what we call tap lines?

Mr. Frost: Well, we have a railroad at Nacogdoches, one at Mansfield, one at Huttig, Ark., and we own the Alden Bridge
5059 Road too.

Commissioner Harlan: Is there not one other road which you own?

Mr. Marble: What was the last one you named?

Mr. Frost: Alden Bridge.

Commissioner Harlan: I assume you are not using the word "own" in any technical sense. My point is what other railroads are controlled or owned by the Frost-Johnson Lumber Company.

Mr. Frost: One at Nacogdoches, Mansfield and Huttig, Ark.; the Louisiana & Pine Bluff, the Bodcaw Valley, which gets a portion or an allowance there.

Examiner Burchmore: Are you President of the Shreveport, Noble & Southern?

Mr. Frost: That is not incorporated.

Examiner Burchmore: It does not receive any allowances?

Mr. Frost: No.

Commissioner Harlan: Well, my question did not exclude any unincorporated companies, so tell us about this last road.

Mr. Frost: The Shreveport, Noble & Southern?

Commissioner Harlan: Yes.

Mr. Frost: Well, we originally got an allowance——

Commissioner Harlan: That has never been an incor-
5060 porated company?

Mr. Frost: No, it has not. It is a narrow gauge road built out there for the purpose of bringing logs in. Several years ago they did receive an allowance from the Kansas City Southern.

Commissioner Harlan: What was the lowest and the highest allowance?

Mr. Frost: It averaged about one and one-half cents to two cents.

Commissioner Harlan: What was the lowest and what the highest?

Mr. Frost: One cent was the lowest, and I am not sure, but I think there were a few points where they got three cents. Most of them were two.

Commissioner Harlan: Are you sure that three cents was the highest allowance that road got?

Mr. Frost: Well, it has been some time ago. I do not think they ever got more than three cents, I do not think they did.

Commissioner Harlan: That road was operated and owned by

the lumbering company, and its expense items were carried on the books of the lumber company?

5061 Mr. Frost: Well, I think they were carried separately. I do not remember about it.

Commissioner Harlan: It was not an incorporated company?

Mr. Frost: No. That is the reason that we dropped the division. We understood that in order to legalize those divisions under the construction placed upon it by the Commission several years ago, it would have to be incorporated and perform the service, so rather than take out a charter we dropped the divisions.

Commissioner Harlan: When did you drop the divisions?

Mr. Frost: That has been several years ago.

Commissioner Harlan: You can tell us later what the date was.

Mr. Frost: I think I can. I think I can get it today.

Examiner Burchmore: You are sure you have not received any allowances recently on the Shreveport, Noble & Southern?

Mr Frost: Oh, no.

Examiner Burchmore: Have you named all the railroads incorporated and not incorporated, in which you are interested.

Mr. Frost: Well, we have a logging road at Camti, and one at Montrose.

Examiner Burchmore: What is the road at Camti?

5062 Mr. Frost: Just a track built out in the woods for hauling timber.

Examiner Burchmore: Has it any name?

Mr. Frost: No.

Examiner Burchmore: Gets no allowances?

Mr. Frost: No.

Examiner Burchmore: What about your plant at or near Frostville?

Mr. Frost: That plant is cut out.

Examiner Burchmore: How recently?

Mr. Frost: It was cut out in August.

Examiner Burchmore: You had a railroad there?

Mr. Frost: Yes, sir, they had a road.

Examiner Burchmore: What was the name of that railroad?

Mr. Frost: Red River Valley.

Examiner Burchmore: Is that road still running?

Mr Frost: No.

Examiner Burchmore: What has become of it?

Mr. Frost: They have surrendered their charter or it expired.

Examiner Burchmore: Have they taken up the road?

M. Frost: I think they have, yes, sir.

Examiner Burchmore: When did they cease operations as

5063 a railroad?

Mr. Frost: Last summer.

Examiner Burchmore: 1910?

Mr. Frost: Yes.

Examiner Burchmore: And they received allowances up to the time that the last lumber moved?

Mr. Frost: Well, I think they did. I am only a stockholder in

that company; I have not handled it or had anything to do with it for about eight or ten years. I have some stock in the lumber company, but they did get an allowance there of one or two cents.

Commissioner Harlan: What acreage did you own there?

Mr. Frost: Of timber?

Commissioner Harlan: Yes.

Mr. Frost: They owned about 35,000 acres originally.

Commissioner Harlan: Has that been fully lumbered?

Mr. Frost: All the pine has been cut out. The oak is short there.

Commissioner Harlan: Has the mill been taken away?

Mr. Frost: No.

Commissioner Harlan: The mill is still there?

Mr. Frost: Yes, sir.

5064 Commissioner Harlan: Is it running?

Mr. Frost: No.

Commissioner Harlan: So that when you stopped lumbering you had no further use for this railroad?

Mr. Frost: Well, there was nothing that developed on the road. I think it was chartered for a short period, and there were no developments out there, there was nothing else to haul from that point unless we could have developed something in the hardwood, which we could not except in ties.

Commissioner Harlan: There was no other mill out there?

Mr. Frost: There was no mill on that line of road, because we owned all the timber in that territory.

Commissioner Harlan: That road reported to the Interstate Commerce Commission and to the State Commission?

Mr. Frost: I do not know how it was handled. I have not been——

Commissioner Harlan: Returning to the Mansfield Railway & Transportation Company, tell us what are the two termini of that road, and where it is?

Mr. Frost: I have just sent to my room to get the map. It runs from Mansfield to Hunter.

(Map produced.)

5065 Commissioner Harlan: In the State of Louisiana?

Mr. Frost: Yes, sir.

Commissioner Harlan: What is the distance between those two points?

Mr. Frost: It is about 15 miles.

Commissioner Harlan: By whom is the Mansfield Railway & Transportation Company owned?

Mr. Frost: I hold the stock of that company for the stockholders of the Frost-Johnson Lumber Company.

Commissioner Harlan: So it is practically the same investment?

Mr. Frost: Yes, sir, practically. While they own the stock it is a separate corporation, but I hold the stock as trustee for the stockholders of the lumber company.

Commissioner Harlan: When was that road incorporated?

Mr. Frost: It was incorporated in February, 1881.

Commissioner Harlan: When was the road itself built?

Mr. Frost: The road was built right after that by the citizens of Mansfield.

Commissioner Harlan: Was there not a road there before this railroad company was incorporated?

Mr. Frost: The Mansfield Railway & Transportation
5066 Company, I say was incorporated in 1881, and built by the citizens of Mansfield, the merchants, and they built from the town of Mansfield out to Mansfield Junction.

Commissioner Harlan: What was that distance?

Mr. Frost: About two miles. Then about four or five years ago I bought that original two miles of the Mansfield Railroad & Transportation Company, bought the property and the stock of the road.

Commissioner Harlan: About two years ago?

Mr. Frost: Four or five years ago.

Commissioner Harlan: When you purchased the railroad company, the railroad itself did not go beyond Mansfield Junction?

Mr. Frost: No.

Commissioner Harlan: What sort of a town is Mansfield?

Mr. Frost: I think there — about 2,000 or 2,500 people there.

Commissioner Harlan: Is it more or less an old town in that country?

Mr. Frost: It is one of the oldest towns in the State, the second oldest, I believe.

Commissioner Harlan: On what regular line is it?

Mr. Frost: The Texas & Pacific runs two miles south of
5067 the town, and the Kansas City Southern is probably a mile or a mile and a half east of it, but our line is the only one that goes uptown. We handle all the freight in and out of the town from both roads.

Commissioner Harlan: What sort of a place is Mansfield Junction?

Mr. Frost: There is nothing there except just the depot.

Commissioner Harlan: Is that on the Texas & Pacific?

Mr. Frost: Yes, sir.

Commissioner Harlan: And also on the Kansas City Southern?

Mr. Frost: Mansfield Junction was down below; you see after the Kansas City Southern built through there they did not go through Mansfield or Mansfield Junction; they crossed the T. & P. a mile and a half west of Mansfield Junction. They have recently built a new depot at that point, the T. & P. has.

Commissioner Harlan: After purchasing the stock of this company, what did you do with it, did you extend the mileage and if so in what direction and to what extent?

Mr. Frost: We extended it a distance of about 14 or 15 miles out to Hunter.

Commissioner Harlan: Crossing the T. & P. tracks?

Mr. Frost: Yes, sir.

5068 Commissioner Harlan: When did the Frost-Johnson Lumber Company acquire its acreage west of the T. & P. tracks?

Mr. Frost: Well, the De Soto Land & Lumber Company purchased most of the timber in there, and sold all their property to the Frost-Johnson Company.

Commissioner Harlan: When did you buy it?

Mr. Frost: Well, I was buying it at the time, but I had been making purchases down there before that. I bought it individually.

Commissioner Harlan: Is it now owned by the Frost-Johnson Company?

Mr. Frost: Yes, sir, all the property which was in the original purchase and all the property owned by the De Soto Land & Lumber Company was sold to the Frost-Johnson Company, and that included the stock and property of the Mansfield Railway & Transportation Company.

Commissioner Harlan: How many acres did you buy of the De Soto Land & Lumber Company?

Mr. Frost: I think at the time we took the property over, they had something like 60,000 acres of land and timber rights, some of which had been cut off.

Commissioner Harlan: And did they have a mill also?

5069 Mr. Frost: Yes, sir.

Commissioner Harlan: At what point?

Mr. Frost: At Oak Hill, about a mile and a half south of the town of Mansfield.

Commissioner Harlan: Did you buy the land or the stock of the De Soto Land & Lumber Company, and in that way acquire title?

Mr. Frost: I bought the property and they turned over the stock.

Commissioner Harlan: So that you own that lumber company also?

Mr. Frost: That is true.

Commissioner Harlan: You say that you have extended this Mansfield Railway & Transportation Company 14 miles west of Mansfield Junction?

Mr. Frost: Yes, sir. The De Soto Land & Lumber Company built some six or eight miles out there, which they sold to the railroad corporation. Then there were some tracks built by the lumber company, and that was sold, and that is the way the Mansfield Railway & Transportation Company acquired the mileage from the point in the town of Mansfield out to the town of Hunter.

Commissioner Harlan: The Frost-Johnson Lumber Company found a railroad built into Mansfield Junction?

5070 Mr. Frost: The Frost-Johnson Lumber Company was not in existence at the time I bought the Mansfield Railway & Transportation Company. It was there, yes, sir, and it was built and had been since 1881, and had been doing business ever since.

Commissioner Harlan: And had been built by the De Soto Lumber Company?

Mr. Frost: Not the original two miles.

Commissioner Harlan: No, I mean the mileage west of Mansfield Junction?

Mr. Frost: Yes, that was built by the lumber company and sold to the railroad company. Part of that now was built by the De Soto Land & Lumber Company, and sold to the railroad company, and then the Frost-Johnson Lumber Company have since added some more mileage to it.

Commissioner Harlan: Tell us about this De Soto Lumber Company just in your own way, all you know about it; when it was incorporated, and who owned it.

Mr. Frost: How it started?

Commissioner Harlan: Yes, what mills and what forests and what railroad it had.

Mr. Frost: Well, originally I went into that territory
5071 west of the town of Mansfield and southwest, and I found this block of timber and I bought it. My father and I together bought it individually. And a party came along and offered to buy it. We agreed on the price, and he organized the De Soto Land & Lumber Company, and when he went to get out his incorporation papers and organize his company, he came back to me and asked if I would go in with him on the manufacturing of that block of timber. I told him I would, and we organized the De Soto Land & Lumber Company about five years ago and took over this property that we owned individually, and then we went to buying additional timber, and have added from time to the holdings of the De Soto Land & Lumber Company up to the year 1908. During that year the Frost-Johnson Lumber Company bought the property of the De Soto Land & Lumber Company, and since that time the Frost-Johnson Lumber Company have added to their holdings that they acquired from the De Soto Land & Lumber Company.

Commissioner Harlan: So that now you have in all about 60,000 acres of land?

Mr. Frost: I don't know exactly. It is some——

Commissioner Harlan: Tell us about the construction of the railroad. I now know about the railroad from Mansfield to Mansfield Junction that was built by the citizens of Mansfield.

5072 Mr. Frost: That was the original two miles.

Commissioner Harlan: Yes.

Mr. Frost: I bought that, and then the De Soto Land & Lumber Company, when they built their mill down there, built some six or eight miles under their own management, the lumber company. The railroad company did not have anything to do with it. There was very little timber there, and they built it as quick as they could. After they got out some six or eight miles, we sold that track to the corporation known as the Mansfield Railroad & Transportation Company.

Commissioner Harlan: Which you had acquired in the meantime?

Mr. Frost: Yes, sir.

Commissioner Harlan: Or was it before you acquired it?

Mr. Frost: I acquired the property of the road some time after we bought the timber; it was about the time the De Soto Land &

Lumber Company was organized. I bought the road there from the stockholders that owned it at that time.

Commissioner Harlan: You have accounted for eight miles of road. Tell us about the rest of it.

Mr. Frost: I do not know just how many miles were built by the De Soto Land & Lumber Company, probably six or eight miles: from the point where the De Soto Land & Lumber Company
5073 left off, it was taken up by the Frost-Johnson Company, and extended to Hunter, and it is now turned over to the Mansfield Railway & Transportation Company.

Commissioner Harlan: Tell us what you found at Hunter, was it a town when you went there, or has it been built since?

Mr. Frost: There was just a store there, but there are quite a number of people who get their supplies there.

Commissioner Harlan: Is it what you call a company town?

Mr. Frost: The buildings there belong to the logging company.

Commissioner Harlan: And the land belongs to whom?

Mr. Frost: To the Frost-Johnson Company.

Commissioner Harlan: What do you mean by the logging company?

Mr. Frost: It is a separate corporation which does the logging for the mill company. They cut the trees and haul them in.

Commissioner Harlan: Is that owned by the Frost-Johnson Lumber Company?

Mr. Frost: It is right now. They were not very successful financially and we had to take it over.

Commissioner Harlan: Is it still maintained as a separate
5074 corporation?

Mr. Frost: As a separate corporation, and if we could get a good man we would like to turn over part of the stock to him.

Commissioner Harlan: How much did that six or eight miles cost that was built by the De Soto Land & Lumber Company?

Mr. Frost: In the neighborhood of $16,000 a mile.

Commissioner Harlan: Was it built by the company, or under a contract with a regular railroad constructor?

Mr. Frost: They got a man to do the grading and they did most of the work themselves.

Commissioner Harlan: Am I to understand that that was the actual cost?

Mr. Frost: I do not know that it cost exactly $16,000. I think that is about the price that the Mansfield Railroad & Transportation Company took it over at because they had had the money invested there several years, and they just agreed in the neighborhood of $16,000 a mile in figuring the value of that eight or ten miles, whatever was there.

Commissioner Harlan: So if that stock were put through a wringer no water would come out, is that it?

Mr. Frost: I do not think so.

Commissioner Harlan: What did you pay for the two miles
5075 from Mansfield to Mansfield Junction?

Mr. Frost: I paid $12,500 cash.

Commissioner Harlan: Did that include any equipment?

Mr. Frost: That included the equipment and road and stock in the corporation.

Commissioner Harlan: What equipment did the road have?

Mr. Frost: They had a locomotive and a car or two.

Commissioner Harlan: Passenger car?

Mr. Frost: Yes, sir. They handled passengers on it at that time, you know.

Commissioner Harlan: This is a broad gauge road?

Mr. Frost: Standard gauge.

Commissioner Harlan: What is the character of the rail that you use?

Mr. Frost: It is laid with 56 pound—well, we have some 60 pound, some 56, and there is some 52 pound rail.

Commissioner Harlan: Is it a ballasted road?

Mr. Frost: Well, it is not rock ballast, but it is surfaced and kept up in good shape.

Commissioner Harlan: Is it well graded?

Mr. Frost: Yes, sir. I have a profile here.

Commissioner Harlan: What equipment do you now have
5076 on that road?

Mr. Frost: We have one or two locomotives, five or six box cars that we use in service, and a passenger coach that we handle passengers in; it is a combination car; it has a partition in the middle, though, for white and colored.

Commissioner Harlan: Do you carry express matter and mail?

Mr. Frost: We have a contract with the government for carrying the mail. We have a contract with the Pacific Express Company for handling express and carry baggage, passengers, and anything that is offered.

Commissioner Harlan: Your contract with the express company covers the whole line?

Mr. Frost: Yes, sir, and if we extend it it covers whatever extension is made during the life of that contract.

Commissioner Harlan: Do you carry express matter to and from Hunter?

Mr. Frost: Yes, sir.

Commissioner Harlan: For whom?

Mr. Frost: Anybody that gets it.

Commissioner Harlan: For these stores?

Mr. Frost: Not only for the stores, but the express comes in there, not very much, but we handle it, whatever is shipped.

5077 Commissioner Harlan: Are they company stores?

Mr. Frost: The logging company owns the store at Hunter, but other people get their freight and express and mail. There is a post office at Hunter.

Commissioner Harlan: How many people live at Hunter?

Mr. Frost: I don't know, probably 75 or 100 people right there.

Commissioner Harlan: They are all more or less employees of the company?

Mr. Frost: Practically all employés of the logging company right

at that point. These other people live out in the country around there.

Commissioner Harlan: Is there any other point on your line between Hunter and Mansfield Junction?

Mr. Frost: Yes, sir, we have a station at Oak Hill and one at Barber and one at Burgess.

Commissioner Harlan: What is the character of the station at Oak Hill?

Mr. Frost: That is the lumber company's plant.

Commissioner Harlan: You mean the mill?

Mr. Frost: Yes.

Commissioner Harlan: And at Burgess?

Mr. Frost: There is not anything there except a side track.

5078 The train stops there to let people on and off. At Baker, Mr. Baker has a little store at his place.

Commissioner Harlan: Do you have a side track there?

Mr. Frost: Yes, sir, and a building——

Commissioner Harlan: Do you take less than car load freight?

Mr. Frost: Yes, sir.

Commissioner Harlan: At each of those stations?

Mr. Frost: Yes.

Commissioner Harlan: Have you an agent there?

Mr. Frost: We have an agent at Hunter and one at Mansfield.

Commissioner Harlan: But none at these intermediate stations?

Mr. Frost: No, we have an arrangement with Mr. Baker to look after the freight which comes in, and we built a house to put it in, but have no agent at that point.

Commissioner Harlan: How far is your mill from the Texas & Pacific main line?

Mr. Frost: The point from where the lumber starts on the car?

Commissioner Harlan: Yes, your planing mill. It is loaded at the planing mill, is it?

Mr. Frost: It is probably two and a half miles from there to where we deliver to the T. & P.

5079 Commissioner Harlan: Has the T. & P. a switch track of its own to your plant?

Mr. Frost: No, they have never had an engine on our rails.

Commissioner Harlan: You would not permit an engine to run on your rails?

Mr. Frost: Yes, we would, but they never have had occasion to, because we deliver the lumber to them at Mansfield Junction, which is the old original point.

Commissioner Harlan: By the country roads, how far is your plant from the Texas & Pacific main line?

Mr. Frost: I can show you on the map; it is only a short distance (indicating); here is where we load the lumber and there is the T. & P. tracks. This is our road and this is the Kansas City Southern and this is the original two miles from Mansfield Junction up into the town of Mansfield.

Commissioner Harlan: On this map point out where your loading point is for the manufactured lumber?

Mr. Frost: It is on this side of it right here (indicating).

Commissioner Harlan: How is that marked on the map?

Mr. Frost: There is the side track to the planing mill (indicating).

Commissioner Harlan: You load your manufactured lumber at a point on the map which is designated as the planing mill?

5080 Mr. Frost: Yes, sir.

Commissioner Harlan: And the track which runs past the planing mill belongs to your railroad company?

Mr. Frost: I do not understand the question.

Commissioner Harlan: The track which adjoins the planing mill belongs to the Mansfield Railway & Transportation Company?

Mr. Frost: It connects up with the main line. This is the Mansfield Railway & Transportation Company's main line.

Commissioner Harlan: The dotted line running from Mansfield Junction out to Hunter is the main line?

Mr. Frost: Yes, sir.

Commissioner Harlan: And over this—what is that?

Mr. Frost: The log pond.

Commissioner Harlan: Over the log pond is your main line?

Mr. Frost: This line here, it crosses the T. & P. at this point, but there is no interchange track there. This lumber is taken out and brought up to this point here and carried down to Mansfield Junction station.

Mr. Cowan: On which track does it go down.

Commissioner Harlan: We will come to that in a moment. How far is your planing mill from the main line of the Texas & Pacific by the dirt road?

5081 Mr. Frost: It does not show the scale, but from this planing mill over there I would not say it was further than a quarter or half a mile.

Commissioner Harlan: Has the Frost-Johnson Lumber Company or its predecessor, the De Soto Land & Lumber Company, ever hauled lumber over by wagon to the main line of the Texas & Pacific?

Mr. Frost: It never was accused of doing anything like that.

Commissioner Harlan: Is there a dirt road?

Mr Frost: Yes, there are dirt roads all around.

Commissioner Harlan: Is there a loading track over here near your planing mill?

Mr. Frost: Yes, sir; the planing mill, right in there belongs to the Sears Roebuck people. They have no saw mill but they buy their lumber all over the country and ship it over the T. & P. and the Kansas City Southern, and it is milled at that point and re-loaded. We have nothing to do with it.

Commissioner Harlan: How far is their plant from the Texas & Pacific?

Mr. Frost: They have a track coming in like this which connects with the Kansas City Southern and the Texas & Pacific.

5082 Their mill sets in this position, and they have loading facilities on both roads.

Commissioner Harlan: That line belongs to the main line, does it not?

Mr. Frost: I do not know. We never had anything to do with it.

Examiner Burchmore: Is the side track which passes the planer on which you load a private track belonging to the Frost-Johnson Lumber Company, or does it belong to the Mansfield Railway & Transportation Company?

Mr. Frost: I think practically all the sidings were taken over by the railroad when they purchased the line; that price included sidings and all property.

Commissioner Harlan: Is it so specified in the deed?

Mr. Frost: In the bill of sale?

Commissioner Harlan: Yes, in the bill of sale.

Mr Frost: I am not sure, I think it does.

Commissioner Harlan: Who owns the real estate on which this switch track is built?

Mr. Frost: The Frost-Johnson Company owns the real estate, but they leased the track there, a regular lease for the siding, if it has gone into the Mansfield Railway & Transportation Com-
5083 pany's property, and I think it did.

Commissioner Harlan: Who owns the real estate underneath the main line of the Mansfield Railway & Transportation Company?

Mr. Frost: We took right of way deeds as we built the road from those parties in the regular form.

Commissioner Harlan: Well, what is the distance from the planing mill to the main line of the Kansas City Southern?

Mr. Frost: This is the Kansas City Southern. It is just off their right of way probably 300 feet, but they have got no track connections in there at all, neither has the Texas & Pacific.

Commissioner Harlan: Did the Kansas City Southern ever have a switch track to your planing mill?

Mr. Frost: They cut in a siding in there temporarily for us when we moved the machinery in, and as soon as that was done it was taken out, because we had our own facilities. We built in there and used our own track.

Commissioner Harlan: When the De Soto Lumber Company owned that mill, did the Kansas City Southern have a switch track in to the planing mill?

Mr. Frost: No, I say when it was organized, and we com-
5084 menced to build the mill, the Kansas City Southern put in a little siding in here to accommodate us and get the machinery in. We had to unload the machinery; but that was all temporary, and when we built it was taken up.

Commissioner Harlan: When you say we, you refer to the De Soto Company?

Mr. Frost: Yes, the original company.

Commissioner Harlan: What is the distance from the planing mill to the junction of the main line of the Mansfield Railway & Transportation Company?

Mr. Frost: I think about 2,000 feet.

Commissioner Harlan: That is the only haul of the manufactured lumber that the Mansfield Railroad does, from the mill to its main line?

Mr. Frost: They go in here and switch all the lumber out. The Mansfield Railway & Transportation Company performs this service (indicating). The lumber company does not have anything to do with it. They go in there and take these cars out and deliver the Kansas City Southern cars to this point, and take the T. & P. lumber to Mansfield Junction.

Commissioner Harlan: —.

5085 Mr. Frost: I would say by the time we bring it up to our connection here, and then go down here, it would be probably two or two and a half miles.

Mr Marble: What is that distance to the point where you deliver cars to the Kansas City Southern?

Mr. Frost: About three quarters of a mile, the distance from the planing mill here to this point (indicating). We have an interchange track right here.

Commissioner Harlan: Have you stated the number of locomotives and logging cars that you own?

Mr. Frost: The lumber company owns the logging cars or the logging company; they own all the logging equipment. The Mansfield Railway & Transportation Company owns the locomotives and the passenger equipment and five or six box cars. They do not own any logging cars at all.

Commissioner Harlan: How many miles of track has the logging company?

Mr. Frost: I think they have about 20 or 25 miles of steel out in the different spurs.

Commissioner Harlan: Are there any other mills on the Mansfield line?

Mr. Frost: Yes, sir.

Commissioner Harlan: Where are they?

5086 Mr. Frost: There is a hardwood mill located just west of the Frost-Johnson Lumber Company's mill.

Commissioner Harlan: What is its annual output, do you know?

Mr. Frost: I have those figures in detail that I can file. I have a lot of other figures here.

Commissioner Harlan: Is there any other mill?

Mr. Frost: No other saw mill. There is a foundry and machine shop, the De Soto Foundry & Machine Shop.

Commissioner Harlan: Is it owned by the Frost Johnson Company?

Mr. Frost: No interest at all, and we have not got a dollar's worth of stock in it or in the hardwood lumber company.

Commissioner Harlan: What is the business of this foundry?

Mr. Frost: Castings and general machine shop work; they repair locomotives and saw mill machinery.

Commissioner Harlan: Is there any soft wood mill on your line?

Mr. Frost: Pine?

Commissioner Harlan: Yes.

Mr. Frost: No. There is a cottonseed oil mill at this point here (indicating). We have no interest in it at all.

5087 Commissioner Harlan: What point is that.

Mr. Frost: Just south of the town of Mansfield.

Commissioner Harlan: Does the logging road carry the logs for any other lumber company than the Frost-Johnson interests?

Mr. Frost: When the lumber company sold the track they reserved the right to operate logging trains over that track which they sold.

Commissioner Harlan: What lumber company do you refer to?

Mr. Frost: The De Soto Land & Lumber Company, that was the original, and the other was carried out under the same plan.

Commissioner Harlan: That belongs now to the Frost-Johnson Lumber Company. My question is whether the logging roads which the Frost-Johnson Company own indirectly carries logs for any interests than the Frost-Johnson interests?

Mr. Frost: Yes, sir, they carry logs for the Mansfield Hardwood Lumber Company.

Commissioner Harlan: Where are they delivered to your main line?

Mr. Frost: At different points, wherever the logging company brings them in.

Commissioner Harlan: What is the extent of that traffic?

Mr. Frost: I have got the percentage——

5088 Commissioner Harlan: We will get those figures a little later. Does the logging company carry pine logs for any other interest than the Frost-Johnson Company?

Mr. Frost: No other—there is no other pine mill on the road.

Commissioner Harlan: There is no other pine mill on the road, but are there any other pine forests there except what you own?

Mr. Frost: Yes, sir, we do not own all the timber lands.

Commissioner Harlan: Then my question is whether the logging company carries logs for any other interests than the Frost-Johnson Lumber Company?

Mr. Frost: The logging company?

Commissioner Harlan: Yes.

Mr. Frost: State the question again.

Commissioner Harlan: You have referred to a logging company that owns these tram lines out into the forest.

Mr. Frost: Yes, sir.

Commissioner Harlan: That is owned by the Frost-Johnson Company at this time.

Mr. Frost: The stock.

5089 Commissioner Harlan: Does that logging company carry logs for any other lumber company than the Frost-Johnson Company?

Mr. Frost: Up to the present time they have not, except the hardwood logs for the Mansfield Hardwood Lumber Company.

Commissioner Harlan: Where do the hardwood logs come from?

Mr. Frost: Different points along the line: most of them from down in the river bottom.

Commissioner Harlan: From lands owned by the Frost-Johnson Lumber Company?

Mr. Frost: Some, and some are not.

Commissioner Harlan: Well, most of them are owned by your company, are they not?

Mr. Frost: Well, most of his tonnage has come off of other people's property that he has manufactured up to date. The logging company hauls it in for him.

Commissioner Harlan: But does he get out those logs himself, or do you get out those logs you sell to him?

Mr. Frost: The logs we sell the logging company get them out for him.

Commissioner Harlan: Does he get out any hardwood logs on your property, or do you get them out and sell the logs to him?

Mr. Frost: We sell—he gets out some of those logs down
5090 there, that is, he hauls them under our instructions.

Commissioner Harlan: Just tell us in your own way just what that arrangement is. We want the absolute facts as you understand them. I am talking now about this hardwood mill, where does it get its stuff and from whom and how?

Mr. Frost: Originally we made a contract with him to sell him so much hardwood timber from our land, and we would deliver it to him at his mill at so much a thousand feet, and the logging company goes into the forest, cuts it and hauls it under their contract to his mill.

Commissioner Harlan: So when you haul that manufactured lumber out you are hauling out lumber which originally came from your own land?

Mr. Frost: Yes, but there is quite a good deal of hardwood there which we do not own.

Commissioner Harlan: And he may acquire it from other sources?

Mr. Frost: He may acquire it from other sources, he has that right and he has exercised it.

Commissioner Harlan: But the volume of his lumber comes from your own land?

Mr. Frost: No, sir, it does not.

Commissioner Harlan: What proportion of it?

5091 Mr. Frost: I think I could give you those figures. Not today, but after I get back from Shreveport.

Commissioner Harlan: Tell us something about the divisions that the Mansfield Railway & Transportation Company gets.

Mr. Frost: They get from one to four cents.

Commissioner Harlan: Has it ever gotten a higher division than four cents?

Mr. Frost: On lumber?

Commissioner Harlan: Yes.

Mr. Frost: No.

Commissioner Harlan: Did you not have a higher division out to Denver and Colorado points than four cents?

Mr. Frost: No, sir.

Commissioner Harlan: Is it your understanding that four cents is the highest division you have ever received?

Mr. Frost: I think that is the highest we have ever got.

Commissioner Harlan: About what is the average division you receive on all your outbound shipments?

Mr. Frost: I would say about three cents, two and a half to three cents.

Examiner Burchmore: Did you not once get a division of five cents on all traffic from the Texas & Pacific Railway?

Mr. Frost: Not on lumber.

5092 Examiner Burchmore: Is it not a fact that when this railroad was taken over by your interests the rates from points on its line to interstate destination via the Texas & Pacific Railway were raised two cents per 100 pounds in amount over the previous rate, or over the junction point rate, and you were allowed five cents as a division?

Mr. Frost: No, sir. When that mill was built there there were no shipments of lumber originating at that point, and the T. & P. I do not think had a tariff in of less than 20 cents to Texas common points, and the T. & P. reduced the rate and made it the same as the Kansas City Southern, I think originally, and then we got three cents per 100 pounds out of that.

Commissioner Harlan: What service do you perform for those divisions?

Mr. Frost: Well, the logs are hauled in over the rails of the Mansfield Railway & Transportation Company, and after it is manufactured into lumber they go into the planing mill and switch it out and haul it up to the connection with the Kansas City Southern and the connection with the Texas & Pacific.

Commissioner Harlan: Then that is a transit rate, is it?

Mr. Frost: Well, it is billed from Oak Hill.

Commissioner Harlan: That is the mill point?

5093 Mr. Frost: That is the mill point, but the raw material of course, comes from out on the line.

Commissioner Harlan: So that you understand that you are being paid partly for hauling the logs into the mill?

Mr. Frost: We figure it that way. It yields some profit on the investment.

Commissioner Harlan: How is the rate published, as a transit rate or a rate from Oak Hill only?

Mr. Frost: The lumber rate applies from points on our line.

Commissioner Harlan: What is the character of the billing when you receive logs at Hunter, is there any billing from that point into the mill?

Mr. Frost: No, that is hauled under the contract with the logging company.

Commissioner Harlan: So that so far as the records show you get a four cent division on some traffic, on lumber hauled from the mill, as far as the transportation records go.

Mr. Frost: Yes, sir. We get all the way from one to four cents on that lumber.

Commissioner Harlan: Where is the general office of your railroad company?

Mr. Frost: Mansfield.

Commissioner Harlan: Has it a building of its own?

5094 Mr. Frost: We have a building there that they handle freight in. We rent an office uptown in one of the office buildings.

Commissioner Harlan: How much of an office force have you?

Mr. Frost: We have got one man in the office, and then he has a man to handle the local freight there in town.

Commissioner Harlan: Tell us about the character of your tonnage, if you have the figures there.

Mr. Frost: I have it in detail here.

Commissioner Harlan: Very well. Let us know what tonnage other than lumber you move.

Mr. Frost: Taking this all the way through probably some of the questions—these items have been asked for. I can read the whole thing in a minute. The Mansfield Railway & Transportation Company was chartered in February, 1881. It now has main line track——

Commissioner Harlan: We have those figures. Confine your observation to the tonnage. We want to know about the tonnage.

Mr. Frost: There are some other details which you will probably ask later.

Commissioner Harlan: Very well.

Mr. Frost: Main line 15.85 miles; side track .30; Gauge
5095 4 feet 8½ inches. Maximum 1.5 per cent. Number of stockholders 5; number of directors 5.

Equipment consists of one locomotive, one box car and one passenger car, all equipped with safety appliances.

Station buildings at the following places: Mansfield, Bakers and Hunter.

One hundred ton 40 foot track scale at Oak Hill.

Track laid with 56 pound steel rail, oak ties. Some of that steel is 59 pound and some 52.

Number of employés about 25.

Total revenue from lumber $13,677.49.

Commissioner Harlan: What period was that?

Mr. Frost: I think that is the year ending June 30th, 1910.

Revenue from lumber from lumber company, $12,497.69. That is the Frost-Johnson Lumber Company.

Revenue from lumber from other shippers, which is nothing more than the Mansfield Har-wood Lumber Company, was $1,179.80.

Now the per cent of lumber revenue from the lumber company was 91.4 per cent, and the per cent of outside lumber 8.6.

Commissioner Harlan: Those percentages are simply of the lumber movement?

5096 Mr. Frost: That is lumber only. The per cent of lumber revenue from lumber company's lumber to the total freight revenue was 48.8 per cent.

Total revenue from other forest products $369.18.

Revenue from all other freight for lumber company, $1,982.16.
Revenue from all other sources, $9,588.36.
Commissioner Harlan: Can you analyze that last figure and give us some of the details?
Mr. Frost: I think it will all come out.
Commissioner Harlan: Very well.
Mr. Frost: The total freight revenue from lumber company's business from all sources was $14,479.85.
Total freight revenue from others, all sources, $11,137.34
The per cent of revenue derived from business from lumber company to total revenue was 56.52 per cent.
Number of passengers carried, 3,812.
Passenger revenue, $1,196.91.
Average amount received from each passenger 31.39 cents.
Passenger revenue per mile of road $76.32.
Number of tons of freight carried, 50,167.
Freight revenue, $25,617.19.
5097 The earnings from all sources were $27,096.95.
Per cent of earnings derived from lumber company's business to the total earnings from all sources, 53.44 per cent.
Total tonnage for the year ending June 30th, 1909, 35,684 tons.
Total tonnage for 1910, the same period, 50,167 tons.
Or an increase of 14,483 tons.
Total lumber tonnage for 1909 was 27,040 tons.
Total lumber tonnage for 1910, 28,596 tons.
Or an increase of 1,556 tons of lumber.
The total tonnage of merchandise for 1909, was 8,644 tons.
Total merchandise handled for 1910, was 21,571 tons.
Or an increase of 12,927 tons in merchandise, not lumber.
The freight revenue for the year ending June 30th, 1910 was $25,617.19; passenger revenue was $1,196.91. Express $12.85; Motor car rental $270.00. Operating expenses for the fiscal year were $19,764.06; taxes $892.80; hire of equipment $1,038.90.
We have a contract to carry the government mail which nets us yearly an amount of $423.60; based on $30.00 per
5098 *annum*.
Commissioner Harlan: Go back to that item of 25,000 tons, of merchandise, I believe, shipped during this last year. Have you any analysis of that tonnage?
Mr. Frost: Yes, sir. Now this is all in tons. Grain, 193 tons. flour 804 tons, other mill products 1646 tons.
Commissioner Harlan: Other mill products?
Mr. Frost: Yes, sir. That is other feed and stuff like that coming to the logging company, feed, chops, or any other products made from corn or wheat. Hay 468 tons, cotton 961 tons. We have handled there for the last five years an average of about 2500—well, about 3,000 bales. Last year we only got about 2200 or 2300, but this season we think we will handle something like 2500 or 3000. Do you want me to read all these figures? You have all this. It is in our report. It is just a lot of detailed figures.
Commissioner Harlan: Let me just run over that a minute.

Mr. Frost: It is filed with the Commission (handing paper.)

Commissioner Harlan: You have an item of 2500 tons of coal and some heavy stuff like coke and sand.

Mr. Frost: That coal, some goes to the lumber company and some to the De Soto Foundry Company. All the coke is for the De Soto Foundry & Machine Company.

5099 Commissioner Harlan: What about the coal?

Mr. Frost: Some for the De Soto Cotton Oil Company and some for the foundry and some for the lumber company.

Commissioner Harlan: And some for the railroad company?

Mr. Frost: And some for the railroad company.

Commissioner Harlan: Mostly it goes to the railroad company and the lumber company, does it not?

Mr. Frost: They would get a majority of the coal, although that is quite a foundry and they use quite a large portion during the year.

Commissioner Harlan: Quite a large portion of it would go to the railroad and the lumber company, would it not?

Mr. Frost: I would say offhand they would use more than half of it.

Commissioner Harlan: According to your figures here you seem to have received substantially more than half of the coal tonnage?

Mr. Frost: It may be in there.

Commissioner Harlan: Out of 2500 tons some 1700 tons went to the lumber company.

Mr. Frost: Well, I said a little over 50 per cent. I did not know that that showed it.

5100 Commissioner Harlan: I would like to have that filed.

(The paper so offered and identified, was received in evidence and thereupon marked Mansfield Railway & Transportation Company Exhibit No. 1, Witness Frost, received in evidence January 26, 1911, and is attached hereto.)

Commissioner Harlan: That does not show what part of the tonnage was confined to Mansfield and to Mansfield Junction.

Mr. Frost: Well, that is the total tonnage that we got from both those roads.

Commissioner Harlan: What part of all your tonnage moves only between those two points?

Mr. Frost: All the lumber tonnage moves to the Kansas City Southern and Texas & Pacific. That is the only connection we have.

Commissioner Harlan: I am now talking about the 25,000 tons of general merchandise that you said you moved last year?

Mr. Frost: That comes in from the T. & P. and the Kansas City Southern, and goes out over the same two roads, and the amount we handled locally from Mansfield to Hunter.

Commissioner Harlan: I understand that, but all that general merchandise does not pass over the whole length of your line.

5101 Mr. Frost: Not all of it.

Commissioner Harlan: I want to know what part of it moved between Mansfield and Mansfield Junction.

Mr. Frost: I do not know whether I have those figures or not. I cannot tell what moves between each station.

Commissioner Harlan: Well, you can ascertain that, can you not?

Mr. Frost: The tonnage handled between each station?

Commissioner Harlan: No, between Mansfield and Mansfield Junction.

Mr. Frost: I think I can.

Commissioner Harlan: The point is this, that line between Mansfield and Mansfield Junction was originally built by the citizens of Mansfield.

Mr. Frost: Yes, sir.

Commissioner Harlan: And apparently for a substantial purpose. Now you being the owner of this company, are now moving all the general merchandise that they formerly moved between those two points?

Mr. Frost: Yes, sir.

Commissioner Harlan: I want to know what part of your 25,000 tons of general merchandise moved only between Mansfield and Mansfield Junction.

5102 Mr. Frost: I can get that.

Commissioner Harlan: You can furnish a statement, I presume, and if so, I wish you would, showing during the last two years the total amount of tonnage inbound and outbound from each station on your line?

Mr. Frost: From each station?

Commissioner Harlan: From each station on your line.

Mr. Frost: Very well.

Commissioner Harlan: And that can be classified as between lumber and lumber products and general merchandise.

Mr. Frost: Do not our reports to the Commission show it? It does not show between each station, it only shows the tonnage.

Commissioner Harlan: I am talking now at each station. Your report to the Commission does not show that, and we want a report from you now covering the last two fiscal years showing the total tonnage inbound and outbound at each station on your line.

Mr. Frost: At each station?

Commissioner Harlan: At each station on your line, and classified as between lumber and lumber products and general merchandise not belonging to the Frost-Johnson Lumber Company, the railroad or its allied companies.

5103 Mr. Frost: Yes, sir, I can get that, but I think I have given the per cent of tonnage handled for other people than our own.

Commissioner Harlan: Yes, but we want it as to each station on your line. Do the locomotives of the railroad company go on to the logging line at all?

Mr. Frost: No, not unless they would have an accident out there and we would send an engine out.

Commissioner Harlan: The railroad company receives the loaded cars at Hunter or other junctions.

Mr. Frost: The logging company brings the logs into the mill.

Commissioner Harlan: Into the mill?

Mr. Frost: Yes, sir.

Commissioner Harlan: With its own locomotive?

Mr. Frost: Yes, sir, under their contract with the lumber company.

Commissioner Harlan: What is the basis of that contract, what compensation does the railroad company receive from the logging company?

Mr. Frost: When the lumber company sold that piece of track they reserved the right to operate their logging trains over it free.

5104 Commissioner Harlan: So the lumber company gets a free movement from Hunter and other junction points with the logging lines to its mill?

Mr. Frost: Yes, sir.

Commissioner Harlan: Then the division which you receive from the regular lines has no relation to any service performed by your line on the logs?

Mr. Frost: Well, when they sold that track, reserving the right, that was a part of the purchase price of the road. That was understood, that they were to have—that the railroad company should pay so much money for the track and reserving this free trackage was part of the purchase price, that was understood between the two companies.

Commissioner Harlan: But I understood that the railroad company purchased the track for its full cost.

Mr. Frost: Well, it was not—I do not know that it was exactly full cost.

Commissioner Harlan: Well, if anything a little more. I got the impression from what you said——

Mr. Frost: No, I think it is just about cost.

Commissioner Harlan: Very well, the railroad company then paid, we will say, practically cost for the railroad tracks.

5105 Mr. Frost: Yes, sir, they paid—that is substantially correct, but then the lumber company had gone into this territory and developed it. That does not necessarily mean that the property was not worth more than what it actually cost.

Commissioner Harlan: You are drawing a distinction between the actual cost of the track and its value to the lumber company.

Mr. Frost: To the railroad company.

Commissioner Harlan: Well, both the lumber company and——

Mr. Frost: Well, to both.

Commissioner Harlan: In other words, the lumber company insisted on getting its full cost and this free trackage right?

Mr. Frost: Yes, sir.

Commissioner Harlan: So the lumber company regarded it as being a greater value that mere cost?

Mr. Frost: Yes, sir, and we would not have sold it to an outsider at that cost.

Commissioner Harlan: But you sold it to an insider at about cost?

Mr. Frost: Yes, sir, reserving the trackage right.

5106 Commissioner Harlan: So the Mansfield Railway & Transportation Company performs no service at all on the logs?

Mr. Frost: None on the logs, no.

Commissioner Harlan: Does it perform any service for anyone on its main line beyond the point where the switching track joins the main line?

Mr. Frost: Out in the woods?

Commissioner Harlan: No, I am now talking about the main line from this switch track to Hunter.

Mr. Frost: They perform service there for everybody.

Commissioner Harlan: Who does?

Mr. Frost: The Mansfield Railway & Transportation Company.

Commissioner Harlan: It performs no service for the lumber company; the lumber company has a trackage right to the mill.

Mr. Frost: It does not haul in the logs, and does not perform any service for them except if they haul merchandise out there the lumber company pays the regular rate.

Commissioner Harlan: Confining myself to this hardwood mill, does the Mansfield Railway & Transportation Company perform any service for them.

Mr. Frost: If he buys logs down on the Texas & Pacific or the Kansas City Southern, they are delivered to us at our junction points, and then are switched over to the hardwood

5107 mill.

Commissioner Harlan: And there they are manufactured?

Mr. Frost: Yes, sir, and the Mansfield Railway & Transportation Company takes the manufactured product out and delivers it to the connecting line.

Commissioner Harlan: Do you send in a special locomotive and car for that purpose?

Mr. Frost: We have an engine, our passenger engine makes the passenger run and also does the switching and performs the service for all.

Crmmissioner Harlan: When it gets the logs from out in your woods, they are hauled in there by the logging company?

Mr. Frost: Yes, sir.

Commissioner Harlan: Under this same free trackage arrangement?

Mr. Frost: Well, they are hauled in under their contract with the lumber company. You see the lumber company transferred their rights to the logging company to operate that train in there, and they haul the logs in and deliver them in the pond; there is

no trackage paid to the Mansfield Railway & Transportation Company for the hauling of those logs.

Commissioner Harlan: In to the pond?

Mr. Frost: No.

5108 Commissioner Harlan: I am talking about the hardwood logs.

Mr. Frost: Well, they are hauled in in the same train.

Commissioner Harlan: In the same way?

Mr. Frost: In the same way.

Commissioner Harlan: So the Mansfield Railway & Transportation Company performs no service for that hardwood mill on the logs brought in from your woods, or the woods belonging to other people out in the same territory?

Mr. Frost: Out in that territory, but they do haul the logs in from the Texas & Pacific and the Kansas City Southern.

Commissioner Harlan: I understand, but I am talking about the movement from the other direction.

Mr. Frost: They do not handle those logs out there.

Commissioner Harlan: When logs are brought in from that direction and are manufactured by the hardwood mill, you carry out the manufactured product?

Mr. Frost: Yes, sir.

Commissioner Harlan: And what divisions do you receive on that?

Mr. Frost: We receive about the same divisions as we do on pine to certain territories, but the division is pretty thin, the way most of it has been moving, it has been moving south and

5109 the rate is low and we get in that territory about two cents per 100 pounds.

Commissioner Harlan: But if it goes in the other direction?

Mr. Frost: But if it goes to northern territory we get practically the same division we would on the pine.

Commissioner Harlan: Suppose the logs come into the hardwood mill from the other direction, where do you receive them from the Texas & Pacific?

Mr. Frost: At Mansfield Junction from the T. & P. and deliver the lumber back at the same point.

Commissioner Harlan: What division do you get for hauling those logs to the mill?

Mr. Frost: We get a two cents per 100 pound division on all the lumber out, going to certain territory, we will say.

Commissioner Harlan: So you get no special division on the logs, but you get a division on the manufactured lumber going out?

Mr. Frost: That is it.

Commissioner Harlan: And that includes your services of hauling the logs inbound?

Mr. Frost: There may be a switching charge or something like $1.00 a car, which is filed with the State Commission; I do not know whether there is a switching charge or not, but I

think they do get a nominal charge, probably $1.00 or
5110 $1.50.

Examiner Burchmore: Do you not get a switching charge of $2.50 from the Oak logs?

Mr. Frost: I could not say; whatever we get it is published.

Commissioner Harlan: Then you get a switching charge on the inbound movement of the logs, and a division on the outbound movement of the manufactured hard wood lumber?

Mr. Frost: We get a division on all the lumber that goes out, pine and oak.

Commissioner Harlan: And the switching charge on all the logs which go in?

Mr. Frost: I say I am not positive about that, whether it is $1.00, $1.50 or $2.50; I do not know just what it is.

Examiner Burchmore: Have you your tariffs here?

Mr. Frost: No, they are at Mansfield.

Commissioner Harlan: Do you know how much the logging company charges this hardwood mill for hauling logs in the other direction of the hardwood mill?

Mr. Frost: That is a matter of detail; they have a contract for whatever service they perform. The time is figured at a
5111 certain price, and the cutting is figured at a certain price, and the haul so much. They have a delivered price.

Commissioner Harlan: So the delivered price to the hardwood mill includes the price of hauling?

Mr. Frost: Yes, sir.

Commissioner Harlan: Is that filed with the Commission?

Mr. Frost: That is not a contract with the railroad company; it is a private contract.

Commissioner Harlan: It is carried by a locomotive on a rail line from the forest to the hardwood mill?

Mr. Frost: Yes, but it is not operated by the railroad company.

Commissioner Harlan: So it is not a published rate with the State Commission?

Mr. Frost: No, that is a private contract.

Commissioner Harlan: Then the lumber company has the right to refuse to receive that hardwood and haul it for the hardwood mill?

Mr. Frost: Under that contract, no, sir; they made a contract here to haul it.

Commissioner Harlan: Well, we will say then at the expiration of the contract it has the right to refuse to enter into any such contract?

5112 Mr. Frost: Yes, they have a right after the contract is over they probably would not want to renew it, because the conditions might not be the same.

Commissioner Harlan: Then it comes to this, does it not, that the Mansfield Railway & Transportation Company incorporated as a common carrier, conducts no operations as a common carrier for this hardwood mill from Hunter up to the mill?

Mr. Frost: Well, they furnish the tracks.

Commissioner Harlan: And that is done by the lumber company under a private contract and without any published rates?

Mr. Frost: Well, it is a private contract that the lumber company reserved when they sold the track, and that was part of the purchase price.

Commissioner Harlan: I so understand. And the Mansfield Railway & Transportation Company does not operate as a common carrier of lumber from Hunter up to your mill?

Mr. Frost: If anybody will tender us a car of lumber out, we will be mighty glad to carry it in.

Commissioner Harlan: We will confine the question to logs moving from the forest up to your mill.

Mr. Frost: If anybody will build a mill on our line under
5113 the same conditions as the Mansfield Hardwood Lumber Company, we will make the same conditions.

Commissioner Harlan: That is, you will let them operate as a private carrier over your line?

Mr. Frost: We will operate as we are now. We will haul them or we will have them hauled by the logging company under the same contract.

Commissioner Harlan: When you say "we", do you mean the lumber company or the railroad company?

Mr. Frost: The lumber company and railroad company would haul them under the contract.

Commissioner Harlan: Is not my statement an accurate statement of the situation, that between Hunter and the hardwood mill, and between Hunter and your mill, the Mansfield Railway & Transportation Company does not operate as a common carrier to people who have logs to ship?

Mr. Frost: Well, on logs, no; they do not haul any logs.

Examiner Burchmore: You own practically the entire standing timber tributary to the Mansfield Railway & Transportation Company?

Mr. Frost: No, sir.

Examiner Burchmore: You own all the pine?

Mr. Frost: We own it all in certain territories; not all of
5114 it, but we own the majority of the timber between there and the river.

Examiner Burchmore: You testified at the New Orleans hearing, as I recall the testimony, in 1908, that since the acquisition of this railroad your companies had bought practically all the pine timber tributary to that railroad.

Mr. Frost: Well, that was right along in a certain territory. If you get off a certain distance from it, we have not.

Examiner Burchmore: Get off how far?

Mr. Frost: Well, six, eight, ten miles; sometimes within a couple of miles we have not all the timber, but we——

Examiner Burchmore: Are there any other holdings of hardwood down there that you are not interested in?

Mr. Frost: Yes, sir.

Examiner Burchmore: How extensive?

Mr. Frost: Well, one man that I know of has got about 25,000 or 30,000 acres which is just below the end of our line, just below Hunter; it sets in three or four miles. There are quite a number of other large blocks in there, and in a great many instances, in buying this pine timber, we did not buy the hardwood, so we have very little interest in the hardwood timber that is left.

Examiner Burchmore: And yet the logging company is
5115 selling hardwood logs to the Mansfield Hardwood Company?

Mr. Frost: No, the logging company does not sell any logs. The lumber company sold these logs.

Commissioner Harlan: Have you filed a copy of the contract between the lumber company and the Mansfield Railway & Transportation Company, in which this right to run logging trains over your line is reserved?

Mr. Frost: I do not think we have, for the reason that is simply in the form of a bill of sale.

Commissioner Harlan: Is that an exclusive right?

Mr. Frost: To the lumber company?

Commissioner Harlan: Yes, has the lumber company reserved the right to do all the hauling of logs over that line?

Mr. Frost: I think the way the bill of sale—well, the way the trade was, the lumber company when it sold that piece of track reserved the right to operate their logging trains. Of course, that is all there is to it.

Commissioner Harlan: The result of that is, is it not, to give to the lumber company the absolute control of the cost to other people of hauling the logs over your line?

Mr. Frost: Well, that was not the intention, to shut anybody out.

Commissioner Harlan: No, but is not that the result of it?
5116 I want an answer yes or no.

Mr. Frost: There is a hardwood mill that has been built there last year, or the year before. This contract was made four or five years ago. That does not indicate that anybody has been cut out.

Commissioner Harlan: I am not asking you whether anybody has been shut out, but whether it is not a fact that no one can haul a log from Hunter over the lines of the Mansfield Railway & Transportation Company except under conditions dictated by the Frost-Johnson Lumber Company?

Mr. Frost: No, sir, they cannot, because the conditions are different to anything else which might come up, because they sold a piece of railroad——

Commissioner Harlan: It is a fact then, that the Frost-Johnson Lumber Company control the movement of logs over your line in this direction?

Mr. Frost: Between those points, yes, sir.

Commissioner Harlan: And the movement of logs is not controlled by your company, which professes to be a common carrier for the general public.

Mr. Frost: If anyone wanted to ship logs, there is a published rate on the logs.

Commissioner Harlan: A published rate from what point,
5117 from Hunter?

Mr. Frost: There is a rate on logs or lumber, there is a lumber rate.

Commissioner Harlan: I am talking about the logging rate now, about the movement of logs.

Mr. Frost: I do not think we have any logging rate and never had any application, although we might have shipped some logs. If we had, it is a rate in connection with the Texas & Pacific or the Kansas City Southern.

Commissioner Harlan: Does your charter permit you to tie up your rate and operations with one shipper?

Mr. Frost: No, sir, we did not tie them up.

Mr. Walter: In transporting logs, lumber or any other commodity over the railroad, the process of transportation involves not only the haul but furnishing and maintaining the roadbed?

Mr. Frost: Yes, sir.

Mr. Walter: And in the haul of all logs from Hunter out, the railroad company furnishes a roadbed and the rails and maintains them?

Mr. Frost: Yes.

Mr. Walter: They contribute that much to the expense of getting the logs to the mill?

5118 Mr. Frost: Yes, sir.

Mr. Walter: The only compensation they receive is out of the division upon the lumber?

Mr. Frost: That is right.

Mr. Walter: I will ask you whether if anybody presented a carload of logs at Hunter consigned to the foundry company or any concern other than the lumber company owned by the Frost-Johnson people, or the hardwood people, whether the railroad company would transport it?

Mr. Frost: Well, they would have to transport it.

Mr. Walter: Have you ever refused as a railroad company to transport any logs offered to you for shipment over the railroad?

Mr. Frost: No.

Mr. Walter: Instead of doing the hauling with your own engine and your own crew that service is performed by one of the agents of the Frost-Johnson people under a contract with the logging company?

Mr. Frost: Yes.

Mr. Walter: I will ask whether the railroad company has refused to perform any service for anybody in the way of transportation over your line?

Mr. Frost: No, sir.

5119 Mr. Walter: You have your local freight tariffs; do you publish a local freight tariff?

Mr. Frost: Yes, sir.

Mr. Walter: In addition to that is there a tariff of rates prescribed by the Louisiana Commission which would apply upon your railroad?

Mr. Frost: Yes, sir.

Mr. Walter: How often does your train go out to Hunter?

Mr. Frost: It makes a round trip every day on a regularly published schedule.

Mr. Cowan: May I interrupt for a moment to ask a question. There have been so many references to the Louisiana schedules of rates and the Arkansas schedule, and as none of us have them, and as I suppose there is one here, if we could have those copied by the stenographer into the record, the schedule of rates pertaining to forest products, it would be a big convenience to all of us. I just happen to mention it while I happen to think of it.

Commissioner Harlan: I would like to see it before ordering it copied.

Mr. Walter: Do you have any joint rates from points on your line to points in Louisiana on lumber?

5120 Mr. Frost: Yes, sir.

Mr. Walter: What is that rate as compared with the Mansfield rate?

Mr. Frost: Well, we have a rate of 12 cents per 100 pounds, I think, to New Orleans and points off our line in connection with the T. & P., the same as the Mansfield rate.

Mr. Walter: In other words, the rate from any point on your line is the same as the junction point rate?

Mr. Frost: I think that is right.

Commissioner Harlan: Do you own this track from Mansfield Junction down to the T. & P.?

Mr. Frost: Yes, sir.

Commissioner Harlan: And the right of way under it?

Mr. Frost: Yes, sir.

Commissioner Harlan: You own all the right of way except perhaps this switch track to the planing mill?

Mr. Frost: I think that belongs to the railroad company too; it was included in the bill of sale.

Mr. Walter: Do you in any way segregate the maintenance or operation of your line of railway as between Mansfield and Mansfield Junction business, and Mansfield and Hunter business?

Mr. Frost: The railroad company keep up the track to the
5121 Mansfield Junction and to Hunter; they operate their own train and keep up their own expenses, and have their own bank account and everything is kept separate from the lumber company business. They have nothing to do with it. They keep up the railroad and maintain it, and keep up all their expenses.

Mr. Walter: Does your passenger coach go out to Hunter?

Mr. Frost: Yes, sir.

Mr. Walter: I will ask whether you treat any part of your railroad separate and apart from any other part of the railroad, in other words, it is all a unit?

Mr. Frost: It is all the same.

Commissioner Harlan: Do you have your cars equipped with safety appliances?

Mr. Frost: Yes, sir.

Commissioner Harlan: And keep your accounts as required by the Interstate Commerce Commission?

Mr. Frost: Yes.

Commissioner Harlan: Do you report to the Commission?

Mr. Frost: Yes.

Commissioner Harlan: Have you appointed an agent at Washington?

Mr. Frost: Yes.

Commissioner Harlan: Who is your agent at Washington?

5122 Mr. Walter: Miss Tenneille.

Commissioner Harlan: What relation have you to the Frost-Johnson Lumber Company?

Mr. Frost: I am president.

Commissioner Harlan: Do you receive free transportation over your connections?

Mr. Frost: I have one or two passes.

Commissioner Harlan: Over what lines?

Mr. Frost: I have a T. & P. and a Kansas City Southern.

Commissioner Harlan: Did you come here to St. Louis on free transportation?

Mr. Frost: I have a trip pass to St. Louis on account of another road.

Commissioner Harlan: Do you occasionally go to Chicago on free transportation?

Mr. Frost: Well, I have been there on transportation.

Commissioner Harlan: Who else in your railroad company has free transportation?

Mr. Frost: Mr. Whited, Vice-President of the Mansfield Railway & Transportation Company has one or two passes.

Commissioner Harlan: What relation does he bear to the lumber company?

5123 Mr. Frost: He is practically the same as he is to the railroad company.

Commissioner Harlan: You are both engaged in pushing the interests of the lumber company as far as you can?

Mr. Frost: We push it all all we can.

Commissioner Harlan: And in pushing it you occasionally travel?

Mr. Frost: We have to.

Commissioner Harlan: And having to travel, you occasionally use free transportation?

Mr. Frost: If we have got it, we do.

Mr. Walter: You do not understand that under the statute the law prescribes what the purpose of your travel shall be when you ride on transportation?

Mr. Frost: No.

Mr. Gaughan: Logs may be transported either on flat cars or skeleton log cars?

Mr. Frost: Yes, sir.

Mr. Gaughan: So the railroad company is not without means of

transporting logs for other people in the event they should be tendered?

Mr. Frost: No.

5124 Mr. Marble: Did you inquire into the divisions received by the Mansfield Railroad before you purchased it?

Mr. Frost: Well, I looked into that as well as everything else that they had in the way of property, and all.

Mr. Marble: You are familiar with the divisions which were made before your purchase?

Mr. Frost: There were no divisions allowed on lumber up until that time; I do not think they had any division sheets in with any road on lumber. There was no lumber manufactured on that line.

Mr. Marble: I have before me what purports to be a division sheet between the Kansas City Southern, Texarkana & Fort Smith, in connection with the Mansfield tap line, which allows a division of $2.50 per car to the Mansfield tap line. I presume that means this road.

Mr. Frost: Yes, sir, that is known as the tap line.

Mr. Walter: What is the date?

Mr. Marble: March 5th, 1902, prior to the purchase.

Mr. Walter: Was it in effect at the time of the purchase?

Mr. Frost: That was simply a switching charge, if there was a car of lumber tendered or coming in there, they would switch it over for that.

5125 Mr. Marble: It is not down here as a switching charge, but as an allowance. I will ask you if your inquiry showed you there was an allowance between the Kansas City Southern and the Mansfield Road at the time of your purchase?

Mr. Frost: I do not remember. I think I saw that tariff or sheet, but that has been so long ago I do not remember just what it allowed for each item, I could not say.

Mr. Marble: This is not a tariff, but a division sheet (handing paper).

Mr. Frost: Well, a division sheet. I could not say whether I saw this—whether this is an exact copy of the one I looked at or not; I presume it is. Naturally if a man intends to buy a piece of property he looks up to see where they are earning their money.

Commissioner Harlan: You think you probably did not overlook it?

Mr. Frost: I did not aim to overlook it.

Mr. Marble: Did you make arrangements before purchasing the road, to change that division?

Mr. Frost: No.

Mr. Marble: How long after you operated the road did you change the division?

5126 Mr. Frost: I don't think it has ever been changed. If a car of lumber comes into Mansfield over the Kansas City Southern, we get $2.00 for switching it up to the town, the same as was in effect then.

Mr. Marble: This purports to be a percentage sheet, naming basis for dividing through rates between Kansas City, Mo., Shreve-

port, La., Texarkana, Texas, St. Louis, Mo., Memphis, Tenn., New Orleans, La., and defined territories, and Mansfield La. You understand that is intended to cover lumber coming into Mansfield?

Mr. Frost: There was no lumber shipped south until we built the mill there. That was intended to cover a car of lumber if a man wanted to build a house, he would buy a car on the Kansas City Southern or the Texas & Pacific, and ship it in, and that would be the amount the Mansfield Railway & Transportation Company would earn for handling that car.

Mr. Marble: There was no lumber manufactured at Mansfield or on this Mansfield Road until after you purchased it?

Mr. Frost: I do not think there was ever a car shipped over it until we purchased it; there was no mill in that territory shipping lumber, that is right on the road.

Mr. Marble: I will ask that this be put in evidence.

(The paper so offered and identified, was received in evi-
5127 dence and thereupon marked Mansfield Railway & Transportation Company Exhibit No. 2, Witness Frost, received in evidence January 26, 1911, and is attached hereto.)

Mr. Marble: Do you recall the basis of divisions with the Kansas City Southern for the first year or year and a half you operated this road?

Mr. Frost: We got from one to four cents.

Mr. Marble: When did you make the arrangement to get that division, as soon as you began to operate?

Mr. Frost: After we got ready to do business or before we commenced to ship lumber, I went up to Kansas City or made the arrangement.

Mr. Marble: Is it not a fact you operated that road from March 31st, 1905?

Mr. Frost: Well, we bought it; I do not remember the exact date we bought it.

Mr. Marble: Just about that time.

Mr. Frost: About that time.

Mr. Marble: And that your arrangement for divisions was not finally completed until April, 1907?

Mr. Frost: No, our arrangements were made before we commenced to ship the lumber.

5128 Mr. Marble: Were not the arrangements finally concluded in April, 1907, and made retroactive on all business?

Mr. Frost: There was some misunderstanding there, and we did not get the settlement made until later on, but the understanding was had before we got started or just about the time we commenced to ship lumber.

Mr. Marble: But the amount of divisions or the freight rate was not determined until April, 1907, and you did not get your division sheet until then?

Mr. Frost: I do not remember just when we got it, there was some delay.

Mr. Marble: Well, there was about that delay, from March, 1905,

to about April, 1907, before the exact amount of divisions was determined. I know you had a general understanding in regard to divisions, but the exact determination was not made, and then that determination was made retroactive at that time.

Mr. Frost: There was a good deal of delay, I do not know how much time elapsed from the time we commenced to ship until we got this settlement, but there was nothing given except what the original amount was; that is the amount they agreed on to start with.

Mr. Marble: Do you know whether as a matter of fact
5129 your divisional basis No. 2 was not actually compiled and issued until early in 1907?

Mr. Frost: I don't know just when it was.

Mr. Marble: And then was marked as effective September 1st, 1905?

Mr. Frost: I could not say just how it read. I know there was a delay in getting those matters fixed up, although we had the understanding and it was all understood just what we were to get right along, and the understanding was if they did not get this tariff out it would be handled on that basis.

Mr. Marble: Were they paying you divisions before they got the division sheet out?

Mr. Frost: I do not think so. I think it was all fixed up there and on every car we kept a record and one settlement was made.

Mr. Marble: One settlement was made after they got the division sheets out?

Mr. Frost: I do not know when they got the division sheet out, I do not remember about that.

Mr. Marble: Do you remember as a matter of fact you conducted business until the difference between $2.50 a car and the amount accruing on the division sheet amounted to about $9,500 and that then was paid in one settlement?

5130 Mr. Frost: Well, it was a good big amount.

Mr. Marble: About that much?

Mr. Frost: I could not say what it was. I know it was a good big amount.

Mr. Marble: What is your impression, what do you mean by a big amount, I do not mean to get it precisely.

Mr. Frost: I would say somewhere from $5,000 to $10,000.

Mr. Marble: Our information is $9,500.

Mr. Frost: Well, that is probably the correct amount.

Commissioner Harlan: And you got that from one to two years after your original verbal understanding?

Mr. Frost: Yes, sir. We had this all agreed to and in some way they failed to get it in shape that they wanted to make the settlement, and when I would go to them they would say we will settle it up. Just what caused that delay I don't know, but we were paid according to the report made.

Mr. Marble: I do not claim anything about this, your Honor, except this, that the amount of the division was fluid for some time, and then was fixed, and then a retroactive settlement made. I do

believe there was a general agreement, but the exact amounts were not determined.

Mr. Walter: The witness has stated the amounts agreed on were paid.

5131 Mr. Marble: I will ask you if you did agree upon the amount precisely, or if you had a general understanding which did not name divisions and precise amounts?

Mr. Frost: It might not have covered every point, but as near as we could figure out in a conference we agreed on the division, and that is just what we got.

Mr Marble: How did the $2.50 per car come to be paid if you had agreed upon something else?

Mr. Frost: $2.50 a car switching?

Mr. Marble: Yes.

Mr. Frost: We supposed that was the way to handle it at that time; we had a tariff out there which covered it.

Mr. Marble: You did not think you were going to get the $2.50 a car, and the division besides, did you?

Mr. Frost: No, we did not figure it that way.

Mr. Marble: It is not likely that lumber would be shipped from St. Louis to Mansfield.

Mr. Frost: I never heard of such shipment.

Mr. Marble: So the division sheet I handed you must have referred to outbound lumber: it is the only direction lumber could move in as between Mansfield and St. Louis.

Mr. Frost: There was no lumber ever shipped off that
5132 road until we built the mill, so far as I know. That was lumber which was coming from little mills in that territory, which would ship a car of lumber into Mansfield; they had a little lumber yard there, and they would ship lumber in over the Mansfield Railway & Transportation Company, and it was shipped in for a charge of $2.50. I think that would be all.

Mr. Marble: This purports to be a division of rates between Mansfield and St. Louis.

Mr. Frost: That is why I say it was not intended for that purpose. It was intended to cover a car of lumber coming in from the small mills.

Mr. Marble: Then it does not state what it is intended for on its face?

Mr. Frost: I am not enough of a rate man to throw any light on that, but I know that is what the $2.50 was intended to cover.

Mr. Marble: How heavily do you load your cars with outbound lumber?

Mr. Frost: We try to load them up to the marked capacity. Our cars averaged last year about 19,000 feet of lumber.

Mr. Marble: That would be about what, 60,000 pounds?

Mr. Frost: That varies, one car might have 19,000 feet and might weigh 75,000 pounds, and you might ship another car and
5133 it might not weigh but 38,000. I don't know just what the average weight of all the cars was, but the average amount of lumber is about 19,000 feet.

Mr. Marble: Do you regard your published switching rate of $2.50 a car on lumber between Mansfield, La., and Mansfield Junction, La., as reasonable?

Mr. Frost: Well, that depends.

Mr. Marble: You do publish that rate?

Mr. Frost: Yes, sir. You would not earn very much money on the investment if that is all the revenue that you got, was just switching cars of lumber.

Mr. Marble: Do you keep account of the weight of logs brought into your mill?

Mr. Frost: I could not say whether they weigh those cars; they probably estimate them. They get what the lumber weighs, and then figure the average. I do not know whether they keep the weight of those cars or not.

Mr. Marble: Are there waybills written up for those cars of logs?

Mr. Frost: They are billed in there by the Texas & Pacific or the Kansas City Southern.

Mr. Marble: No, I mean those coming off your line?

5134 Mr. Frost: No, they are not waybilled.

Mr. Marble: No transportation records kept of that movement?

Mr. Frost: Not on the tonnage, no, sir.

Mr. Marble: Nor the particular cars?

Mr. Frost: No, they are just logging cars, skeleton cars.

Mr. Marble: Who bears the expense of taking up and relaying the switch lines in the forest?

Mr. Frost: The lumber company or logging company, whoever does the logging. The logging company builds their spurs out into the trees and loads them on the cars and pull them in for so much money; that is all borne by the logging company or lumber company, who ever is doing the logging.

Mr. Marble: All borne by the logging company itself because of its relation to the lumber company?

Mr. Frost: Yes, sir.

Commissioner Harlan: The logging company has no revenue producing road?

Mr. Frost: No.

Commissioner Harlan: So the expense is borne by the Frost-Johnson Lumber Company.

Mr. Frost: On the spur tracks eventually, yes, sir.

Mr. Marble: Does the Frost-Johnson Company maintain a contract with the logging company so they are run as two

5135 separate organizations?

Mr. Frost: Yes, sir, the logging company is a separate corporation, incorporated under the laws of the State of Louisiana and they keep their accounts and they are just as separate and distinct as if it was an individual doing business with the Frost-Johnson Lumber Company.

Mr. Marble: Does the logging company cut the trees?

Mr. Frost: Yes, sir.

Mr. Marble: And brings them to the mill?

Mr. Frost: Yes.

Mr. Marble: Its duty is to make the tree into a log and deliver it at the mill?

Mr. Frost: Yes, sir, into the pond.

Mr. Marble: The lumber company furnishes it with the track over which it is to run under this contract it has with the railroad company?

Mr. Frost: Yes, sir.

Mr. Marble: You testified with regard to the ownership of the equipment, that it belongs to the lumber company?

Mr. Frost: Yes, sir, that is the equipment used in the logging service.

Mr. Marble: Is it your theory that the allowance of one
5136 to four cents per 100 pounds covers something more than the switching service of the lumber from the mill to the connection with the main line.

Mr. Frost: Yes, sir; we have an investment in that road out there and we do not get any earnings until we handle the car of the manufactured product.

Mr. Marble: You say the lumber company and railroad company are separate corporations?

Mr. Frost: Yes, sir.

Mr. Marble: I will ask you now it is that an allowance to the railroad company can compensate the lumber company, a separate corporation, for the expense of bringing the logs down there off their spur?

Mr. Frost: There is no compensation to the lumber company. The four cents per 100 pounds is paid to the railroad company.

Mr. Marble: What right has the railroad company for compensation for something it does not do?

Mr. Frost: It has to carry out the contract.

Mr. Marble: It is done by the lumber company.

Mr. Frost: It is carrying out the contract when they bought that from the lumber company.

Mr. Marble: Is it your theory that an allowance to your railroad in effect compensates the lumber company for some expense
5137 it has borne?

Mr. Frost: The lumber company went in and built the road and sold it at actual cost with the understanding they could have a free trackage. Now the railroad company has got the investment in the road, and the lumber company has the right to operate its logging trains over it.

Mr. Walter: But the railroad company furnishes the railroad over which the logs are hauled?

Mr. Frost: Yes, sir.

Mr. Marble: He has just said that the lumber company has an investment in the railroad——

Mr. Walter: No.

Mr. Marble: I will ask again, who furnishes the railroad?

Mr. Frost: The Mansfield Railway & Transportation Company owns the track from Mansfield to Hunter.

Mr. Marble: Subject to an easement in the lumber company to run its trains over it, so that that easement is the property of the lumber company?

Mr. Frost: The lumber company do not own the railroad.

Mr. Marble: But when they sold it they expressly refrained from selling that right; they had the entire property and sold only a modified property keeping in themselves an easement, the
5138 right to run their trains over the track.

Mr. Frost: That is the contract.

Mr. Marble: So the lumber company furnishes the track and not the railroad company; the lumber company has never divested itself of that right; is not that right?

Mr. Frost: I do not know whether that would be construed that way.

Mr. Marble: So far as the operation of the trains is concerned, you testify the railroad company bears no portion in that expense?

Mr. Frost: No.

Mr. Marble: And yet you say that this allowance by the trunk lines is intended to cover something more than the cost of bringing the lumber from the mill to the main line junction point.

Mr. Frost: It means this, that the railroad company is not going to get any earnings unless they can get this division, because they have already made a deal, and in buying this track the trackage rights were reserved.

Commissioner Harlan: Let me look at that agreement.

Mr. Frost: It was just a bill of sale. I haven't it here.

Commissioner Harlan: You haven't it here?

5139 Mr. Frost: No.

Mr. Marble: What did the railroad company really buy from the lumber company if it is not something on which it can make earnings?

Mr. Walter: You are entirely unfair in your examination, and I object to it. The witness has stated time and again that the railroad company owns those rails and all that the logging company has is the right to go over them.

Commissioner Harlan: The testimony of this witness is very clear. I put to him the question, if the lumber company was given the cost of that railroad, and he said afterward that the railroad company did not give its full value, that it had more of a value than it actually cost, and that it had more of a value to the lumber company, and then it developed that that extra value was reserved by the lumber company, and the witness so stated, that the extra value consisted in the reservation by the lumber company of the right free of charge to haul the logs over the lines of the Mansfield Railway & Transportation Company.

Mr. Cowan: And the logging company obtains that right through the lumber company and not through the railroad company.

Commissioner Harlan: Yes.

5140 Mr. Walter: But he did not say that right to haul the logging trains represented the entire difference between the value of the railroad and its cost.

Commissioner Harlan: If he did not, let him now explain it. I so understand it. I understood the railroad had a value to the lumber company in excess of the cash cost of $12,000 a mile, and that that extra value consisted in the right that it reserved free of charge to operate the logging trains over it. Now if that is not the meaning of the witness, let him now explain it.

Mr. Garwood: I understood the witness to state——

Commissioner Harlan: Pardon me, let the witness state if that was his meaning.

Mr. Marble: I should like to have the question read.

(The question was read as follows:)

"Mr. Marble: What did the railroad company really buy from the lumber company if it is not something on which it can make earnings?"

Mr. Frost: It bought the tracks from the lumber company.

Mr. Marble: It did not buy the absolute property in the track.

Mr. Frost: It bought the property.

5141 Mr. Marble: It bought it subject to the right of the lumber company to run logging trains over it.

Mr. Frost: They bought the track, and gave the lumber company the right to operate those trains over that part of the track.

Mr. Marble: Is that a profitable investment aside from the carriage of the logs?

Mr. Frost: It earned about one and one-half per cent, I think.

Mr. Marble: It earned one and one-half per cent on the $15,000 a mile?

Mr. Frost: I think so.

Mr. Marble: Without regard to these divisions on the lumber?

Mr. Frost: No, the total earnings were about one and a half per cent.

Mr. Marble: I am talking about the earnings of this road, which is used for logging operation which you say was sold to the railroad company subject to the right of the mill company to run its logging trains over it. Now what are the rights which went with that purchase after the withholding of that right to run logging trains is withheld from that sale, what is left, and what earnings does the railroad company have running up into the woods?

5142 Mr. Frost: Well, if it is extended, if we kept on extending it, it would be certainly a paying proposition, if we could induce larger people to come on that line.

Mr. Marble: As at present situated, it is a logging road?

Mr. Frost: Well, logs are hauled over it, but then we operate it separate and distinct, we run a passenger train out there, and haul local freight or cars or anything offered, and it is all operated separately from this logging company's trains.

Mr. Marble: You have furnished a list of your earnings from that operation?

Mr. Frost: Yes.

Mr. Marble: Is it not a fact there was a general discussion with general officers of one of the trunk roads, perhaps the Kansas City Southern, regarding the right to base divisions upon the Mansfield Road's ownership of these lines into the woods, and then there was some delay about tranferring its title by the milling company?

Mr. Frost: Well, I think it was about like this, they told us we would have to operate the road if we got the division they were paying, and we took it over and put the passenger trains on and commenced to operate that part of it as a common carrier. We had operated the other part, but it was only about two miles, and
5143 then the three miles, and they told us it ought to be operated all the way out if we were to operate it as a railroad, to make a railroad out of it. That came more as a matter of advice.

Mr. Walter: About how much does it cost per mile to maintain the roadbed from Hunter down to the Junction?

Mr. Frost: I have got the details which is in some of these figures here, and I can get it.

Mr. Walter: If you haven't it right at hand, if you can give an approximate estimate.

Mr. Frost: I do not remember just what it is. I will look it up.

Mr. Walter: We want to show that that is a material charge against the railroad in the hauling of these logs.

Commissioner Harlan: From what point?

Mr. Walter: From Hunter down to the mill, and the division is the only compensation to reimburse them for that expense.

Commissioner Harlan: This witness has stated it is the only compensation he gets.

Mr. Walter: We want to show how much it costs to maintain that roadbed.

Commissioner Harlan: Very well, he can show that later. That seems to be all.

5144 Mr. Cowan: Can you furnish us with the tariffs of this road?

Mr. Walter: Yes, the Commission has those.

Mr. Cowan: I mean, have you any copies?

Mr. Walter: No, I have only one copy here.

Commissioner Harlan: The Commission will adjourn at this point until 2:00 o'clock. You will be back, Mr. Frost.

Mr. Frost: Yes.

(The map and profile above referred to, was received in evidence and thereupon marked Mansfield Railway & Transportation Company's Exhibits Nos. 3 and 4, Witness Frost, received in evidence January 26, 1911, and are attached hereto.)

Whereupon, at 1:00 P. M. a recess was taken until 2:00 P. M.

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5145 After Recess.

E. A. FROST, resumed the stand, and further examination continued.

Commissioner Harlan: Have you a copy of that bill of sale, Mr. Walter, that the witness has referred to.

Mr. Walter: No. Is it possible to obtain a copy at the lumber company's office here?

Mr. Frost: I can furnish that information when I get home.

Commissioner Harlan: I mean can we have it here today?

Mr. Frost: I could not get it, because I have to get it from the records at Mansfield.

Mr. Walter: We can furnish a copy to the Commission.

Commissioner Harlan: Very well, if you will.

Mr. Marble: Going for a moment into the question of the ownership of the woods, and the logs along the line of the Mansfield Road by the Frost-Johnson Company, did I understand you to say there were other logs reached by your road than the logs owned by the Frost-Johnson Lumber Company?

Mr. Frost: Oh, yes.

Mr. Marble: How far are they from the tracks belonging to the Mansfield Road?

Mr. Frost: Well, some of them are close to the track, and some are—we own only about 40,000 to 50,000 acres, something like that in that territory——

5146 Mr. Marble: How far is it from your track?

Mr. Frost: Our timber?

Mr. Marble: No, how far is it from the track belonging to the Mansfield Railroad?

Mr. Frost: Well, we do not own all the timber in that territory.

Mr. Marble: I am asking how far from the track of the Mansfield Railroad is there timber not belonging to you.

Mr. Frost: There might be some half a mile or a quarter of a mile that we did not buy and have not bought; it is there for sale to anybody who wants to buy it.

Mr. Marble: I am not asking for the distance from the logging track belonging to the logging company, but from the track belonging to the Mansfield Railway & Transportation Company.

Mr. Frost: There is probably timber within half a mile of the Mansfield Railway & Transportation Company that we do not own.

Mr. Marble: Who owns the land in between the track of the Mansfield Railroad and this timber, the Frost-Johnson Lumber Company.

Mr. Frost: Well, we might own it and might not.

Mr. Marble: Is there any timber owned by anybody else
5147 that is immediately adjacent to the track of the Mansfield Railway & Transportation Company?

Mr. Frost: I remember one or two pieces which we went through that I do not think we have ever bought the timber. I think there is a school section that we went through, and I do not think that timber has been sold.

Mr. Marble: Belonging to the state?
Mr. Frost: It belongs to the School Board.
Mr. Marble: You have filed with the Interstate Commerce Commission your I. C. C. No. 2, local freight tariffs applying on classes and commodities between stations on the Mansfield Railway & Transportation Company?
Mr. Frost: I think so.
Mr. Marble: And that names a rate for the logs which is the same as the rate upon lumber, and a great many other products, and for five miles and under the rate is five cents per 100 pounds. Would that reach any timber not owned by the Frost-Johnson Company, five miles from Mansfield?
Mr. Frost: Yes, sir.
Mr. Marble: It would reach some?
Mr. Frost: Well——
Mr. Marble: Is it practicable to pay five cents per 100
5148 pounds on logs?
Mr. Frost: No, sir.
Mr. Marble: To manufacture?
Mr. Frost: No.
Mr. Marble: Is not the making of such a rate as that practically a denial of the use of the railroad to other owners of logs?
Mr. Frost: That was put in there just merely to cover it, but I do not think we have ever had an application for the shipment of logs, although I am not sure about that; I do not know whether we have shipped any logs out of there. We have shipped no pine logs.
Mr. Marble: Nobody could ship on that rate?
Mr. Frost: No.
Mr. Marble: Commercially could a man stand that rate?
Mr. Frost: No, I would say not.
Mr. Marble: Being questioned about the passes you remarked incidentally you came to St. Louis on a trip pass. You have not an annual pass that would bring you to St. Louis?
Mr. Frost: I did not at that time.
Mr. Marble: What?
Mr. Frost: I got a trip pass to come to St. Louis.
Mr. Marble: Is that because your 1911 annuals have not
5149 yet been issued?
Mr. Frost: The 1911 have not been issued.
Mr. Marble: And for that reason you came on a trip pass?
Mr. Frost: Yes.
Mr. Marble: What passes did you have last year?
Mr. Frost: I had Texas & Pacific, Kansas City Southern, Iron Mountain and Cotton Belt.
Mr. Marble: Missouri Pacific?
Mr. Frost: Well, the Iron Mountain and Missouri Pacific, yes, sir.
Mr. Marble: Did you have a Wabash pass?
Mr. Frost: I don't remember, I think I did. I don't remember whether I had one last year or not, I think I did, though.
Mr. Marble: Did you have an Alton pass, Chicago & Alton?

Mr. Frost: I did.

Mr. Marble: Did you have a Burlington pass?

Mr. Frost: I think I did.

Mr. Marble: Did you have a Chicago & Northwestern pass?

Mr. Frost: I don't think so; I am not sure about that, I do not think I had.

Mr. Marble: How many passes would you say you had?

Mr. Frost: I probably had six or eight.

5150 Mr. Marble: Did you have any passes east of Chicago?

Mr. Frost: On what line?

Mr. Marble: Any line, did the Wabash pass take you as far as the Wabash might go, would that take you to Pittsburg during the time the Wabash was operated into there?

Mr. Frost: I could not say whether it was a system pass or not.

Mr. Marble: What passes did you have east of Chicago, do you think?

Mr. Frost: I had the ones I have named, the Wabash and the Alton.

Mr. Marble: Did you have any New York Central pass?

Mr. Frost: No.

Mr. Marble: Or Pennsylvania?

Mr. Frost: No.

Mr. Marble: Baltimore & Ohio?

Mr. Frost: No.

Mr. Marble: Baltimore & Ohio Southwestern?

Mr. Frost: I don't think so.

Mr. Marble: Louisville & Nashville pass?

Mr. Frost: No.

Mr. Marble: Is it a common thing for you to get trip passes over roads which do not issue annuals to you?

5151 Mr. Frost: I do not get a trip pass very often, no, sir.

Mr. Marble: You get them as often as you need them?

Mr. Frost: No.

Mr. Marble: You do pay some fares in cash?

Mr. Frost: Yes, sir.

Mr. Marble: You use these passes, of course, as being personal to yourself regardless of the business on which you are traveling?

Mr. Frost: Well, I feel like if I am given a pass I am entitled to use it.

Mr. Marble: I understand that, I am simply asking for the fact. You use it regardless of the business on which you are traveling?

Mr. Frost: I use a pass, if I have it, and want to go, I use a pass.

Mr. Marble: How many officials of your road who also have passes in this same way?

Mr. Frost: I do not think there is but one.

Mr. Marble: One of them?

Mr. Frost: Yes.

Mr. Marble: Who was that?

Mr. Frost: Mr. F. T. Whited.

Mr. Marble: Does he have to do with the sale of lumber?

5152 Mr. Frost: No.

Mr. Marble: What is his relation to the lumber business?

Mr. Frost: He looks more after the manufacturing and these small railroads; he is an officer in those railroads.

Mr. Marble: General supervision of the business outside of canvassing for sales?

Mr. Frost: Yes.

Mr. Marble: These figures of tonnage other than logs and lumber which you have furnished, the feed and general supplies and groceries and all that sort of thing, you have of course, included the feed which you give to your own animals, as a matter of course.

Mr. Frost: That includes all the mill products that we have handled.

Mr. Marble: And the supplies for the men who are in your employ?

Mr. Frost: Yes, sir, but this statement shows the amount that was handled for the lumber company, and the amount handled for others.

Mr. Marble: I understand that the logging roads which are merely temporary, laid into the woods and taken up and re-laid, do not belong to the Mansfield Railway & Transportation Company?

5153 Mr. Frost: No, sir, not to the railroad company.

Mr. Marble: They belong to the logging company?

Mr. Frost: The logging company, and the steel belongs to the lumber company, and the logging company builds those tracks.

Mr. Marble: Is it not a fact that those branches are the ones which would come nearer to the timber owned by other people other than the Frost-Johnson Company?

Mr. Frost: Well, they would pass through timber not owned by the Frost-Johnson Lumber Company just the same as the main line of the road would.

Mr. Marble: You testified regarding certain track elsewhere of the Nacogdoches Company, I believe, that it was not incorporated.

Mr. Walter: No, not the Nacogdoches Company.

Mr. Marble: Which ones were they that you testified were not incorporated and upon which you were not getting an allowance?

Mr. Frost: Montrose and Campti.

Mr. Marble: The Shreveport &——

Mr. Frost: No mill at Shreveport; at Campti and Montrose?

Mr. Marble: Do those tracks lead into timber not owned by you?

5154 Mr. Frost: We own practically all the timber in that territory, in the territory of those two lines.

Mr. Marble: About the same proportion of the whole as you have with this Mansfield property, or less or more?

Mr. Frost: I would say we own more, because we practically own all the timber in that territory on those two lines.

Mr. Marble: You spoke of the agreements that you had for these divisions on the Mansfield Road. With what officials did you have conferences, with whom did you get those agreements, what officials of the Kansas City Southern?

Mr. Frost: I had a conference with Mr. Edson, and arranged those divisions.

Mr. Marble: Did you have a conference with Mr. Smythe?

Mr. Frost: Mr. Smythe was probably present, but I think the first conference was with Mr. Edson, and Mr. Smythe might have been present.

Mr. Marble: With the Texas & Pacific with whom were they had?

Mr. Frost: Mr. Thorn and Mr. Sargent.

Mr. Marble: Are you familiar with the lumber business and the conditions of it prior to 1905?

Mr. Frost: Yes, sir. I have been in the lumber business since 1891.

5155 Mr. Marble: It is true, is it not, that prior to 1905 in the lumber business, as in a great many other businesses, large rebates were given.

Mr. Walter: What do you expect to show by this?

Mr. Marble: I expect to find out what he knows about it and then I will ask another question. I want to know if he is familiar with the way freight rates were made prior to 1901 actually; that is to say, the arrangements with particular shippers with rebates from the published rates. I do not suppose anyone disputes that that was the fact in those days. I did not know that anyone did.

Mr. Frost: Well, I don't remember whether I understand just what you mean.

Commissioner Harlan: You mean you have no familiarity with rebates?

Mr. Marble: In the days when rebates were the rule, there were days prior to 1905, and up to about 1906, that rebates were freely given in the lumber business as in other business, were they not? That is a fact, is it not?

Mr. Frost: I could not say that there were any rebates given.

Mr. Marble: You don't know that?

Mr. Frost: I don't know about that. They would pub-

5156 lish a special tariff probably; they had what they called a construction rate.

Mr. Marble: That would be for the building of one of these roads, or for the building of a mill?

Mr. Frost: For the building of a mill, that machinery might go in there on a little less rate than published.

Mr. Marble: Were there such special tariffs published for the movement of lumber out, to your knowledge?

Mr. Frost: No.

Mr. Marble: Did lumber pay the tariff rates prior to 1905?

Mr. Frost: It paid the tariff rate, and prior to 1905 there were probably some of these roads that got an allowance out of the through rate just as they do now.

Mr. Marble: But you are not familiar with the payment of rebates to the mills prior to 1905 on their shipments.

Mr. Frost: Well, it was handled just about like it is now.

Mr. Marble: When did these divisions with tap lines first make their appearance?

Mr. Frost: Well, I could not say just when they did commence paying them.

Mr. Marble: They have been paying them since you be-
5157 came familiar with the lumber industry?

Mr. Frost: No.

Mr. Marble: What was done before that, were tariff rates paid without concessions, or was there a concession?

Mr. Frost: There was an allowance made in some instances, we will say, of two cents per 100 pounds.

Mr. Marble: To whom, to the mill?

Mr. Frost: To the road, although it was not an incorporated road.

Mr. Marble: Well, if it was not incorporated and was owned by the mill, it would be made to the mill naturally.

Mr. Frost: Well, it went to the mill—to the railroad; it was paid to the railroad company.

Mr. Marble: Although the railroad was not incorporated.

Mr. Frost: The railroad was not incorporated.

Mr. Marble: And had no identity.

Mr. Frost: Well, they were owned by the same interests.

Mr. Marble: And owned by the same firm or corporation.

Mr. Frost: Well, it was owned by the lumber company just like now, the stock of the roads is owned by the lumber company.

Mr. Marble: A check would be made to the lumber company in those days; I am not laying any trap for you; it is of *in*
5158 great consequence, and if you are not familiar with rebates in those days we will let the matter drop. If you are we would like to know.

Mr. Frost: I would say I am not very familiar with it, because the time I can remember back this is the way we handled these things.

Mr. Marble: You say prior to 1905 that allowance was around two cents per 100 pounds?

Mr. Frost: Well, in some instances we got two cents per 100 pounds and in some instances it might have been more. I would say it was an average of one to two cents.

Mr. Marble: Are the allowances generally larger now than then?

Mr. Frost: Some of them are because the roads have been extended?

Mr. Marble: But they are generally larger?

Mr. Frost: I would not say generally; I would say there are larger allowances than that paid, because take our Mansfield Railway & Transportation Company——

Mr. Marble: Because logs are farther away from the main line?

Mr. Frost: Yes, sir; take our Mansfield Road, we have
5159 more money invested and we feel we are entitled to a greater proportion than we were then.

Mr. Marble: Then as the mill has to go farther away from the main line to get its logs, the allowances have increased?

Mr. Frost: In some instances.

Mr. Marble: Did you know at all in the old days of special al-

lowances being made upon lumber for particular contracts in order to enable the mills to compete?

Mr. Frost: No, I had very little to do with the selling of our lumber.

Mr. Marble: That is all.

Examiner Burchmore: Are the joint rates on hardwood lumber to which your company is a party in connection with the Texas & Pacific to interstate destinations the same as the rates which the Texas & Pacific has from its own stations in this vicinity or are they an arbitrary higher?

Mr. Frost: Our rates, I think, are the same from any point on our line in connection with the Kansas City Southern or the Texas & Pacific to interstate points.

Examiner Burchmore: That is true of hardwood rates?

Mr. Frost: Well, the rates I think are the same as the pine.

Examiner Burchmore: Are the divisions the same as these
5160 yellow pine divisions?

Mr. Frost: The division on the hardwood?

Examiner Burchmore: Yes.

Mr. Frost: Yes, sir, practically the same.

Examiner Burchmore: Do you have any milling in transit rates on your line?

Mr. Frost: No.

Examiner Burchmore: Have you ever had milling in transit rates on this line?

Mr. Frost: No, sir, we have handled it just like it is now.

Examiner Burchmore: Then the rates under the tariffs have never covered or been intended to cover the movement of the logs into the mill?

Mr. Frost: No.

Examiner Burchmore: I call your attention to your testimony at New Orleans in 1908, particularly to page 1412 of the transcript; this is filed in Docket No. 1436, the Winn Parish case. Mr. Garwood's question is: "One of the counsel asked you about the service this railroad company rendered as to the lumber, and you stated it hauled the lumber from the mill to the junction point." Answer, by

Mr. Frost: "Yes, sir. Mr. Garwood: Is it not also a mill-
5161 ing in transit proposition, the hauling of the logs in on the main line to the mill? Mr. Frost: Yes, sir. Mr. Garwood: So that that additional service is also rendered? Mr. Frost: Yes, sir."

There is a little ambiguity perhaps in your answers, but they appear to indicate that the rates covered the logs into the mill as well as the lumber out, and that those rates were on a milling in transit basis.

Mr Frost: Well, the railroad company does not get any revenue out of those logs until they are manufactured into lumber.

Examiner Burchmore: If your testimony at that time is accurately reported here or should properly be interpreted to mean you had milling in transit rates, then it was in error?

Mr. Frost: It probably was, or I probably did not understand just what he meant by that.

Mr. Walter: What did the tariffs show at that time, Mr. Burchmore?

Examiner Burchmore: I do not know what they showed. I do not know that there is any milling in transit.

Mr. Walter: The tariffs ought to show.

Mr. Cowan: How is it, do they show?

Mr. Walter: I do not know. I am speaking of the time he
5162 testified.

Examiner Burchmore: That testimony was understood to mean that they had milling in transit and that it covered the shipment of the logs into the mill. He now states that is not true.

Mr. Walter: He is speaking of the present time now.

Examiner Burchmore: Well, it was not true at that time, was it?

Mr. Frost: We handled it then just as it is now.

Mr. Walter: The tariff might have been different.

Mr. Cowan: The witness says it was not.

Mr. Walter: No, but I am speaking, that we should know from the tariff itself.

Examiner Burchmore: In describing your freight traffic, you gave the revenue from all sources and the revenue from traffic supplied by the Frost-Johnson interests and stated as I recall it that 56 per cent of the total freight revenues were derived from traffic supplied by the Frost Johnson interests.

5163 Mr. Frost: I think that is correct.

Examiner Burchmore: Have you prepared any tonnage figures?

Mr. Frost: Yes, sir.

Examiner Burchmore: Can you give us the total tonnage of lumber supplied by the Frost-Johnson people?

Mr. Frost: I thought I gave that.

Examiner Burchmore: Was that in your statement?

Mr. Frost: Yes, sir, I think so.

Mr. Walter: Yes, sir.

Examiner Burchmore: Well, what was the percentage?

Mr. Frost: The total tonnage of lumber for 1910 was 28,000 tons. The total—I have not figured the percentage out. I can figure that out this afternoon.

Examiner Burchmore: What was the total tonnage of all freight?

Mr. Frost: It was 50,167 tons, that was for the year ending June, 1910.

Examiner Burchmore: How many trains a day do you run west of Mansfield?

Mr. Frost: We run one train each way a day.

Examiner Burchmore: On a regular schedule?

Mr. Frost: Yes, sir.

Examiner Burchmore: Do you have a local rate on lum-
5164 ber or logs, what might be called a switching rate as between Mansfield Junction and your mill, I have forgotten the name of the mill.

Mr. Frost: Oak Hill.

Examiner Burchmore: At Oak Hill.

Mr. Frost: We have a rate in, I think, that covers the movement of hardwood logs to the hardwood lumber company's mill.

Examiner Burchmore: Does that rate apply only to logs?

Mr. Frost: Switching—well, I could not say whether it just applies to logs or not. We have a tariff to cover the movement of those logs.

Examiner Burchmore: What is the rate?

Mr. Frost: I don't know exactly. I stated this morning that I did not know exactly what that rate was.

Mr. Marble: The tariffs are here, and do they cover more commodities than logs and lumber.

Mr. Frost: Well, I am not very familiar with that part of it because I do not look into those details.

Mr. Marble: Do you know why your switching tariff No. 4-B was cancelled, and your switching tariff No. 4-C put in? The only difference being that 4-B was filed with the Interstate Commerce Commission and 4-C is not; are you familiar with the reason for
5165 that?

Mr. Frost: No, that is handled down at Mansfield, and I am not familiar with it.

Commissioner Harlan: Who were the five stockholders of this railroad company?

Mr. Frost: There is Mr. Whited, Mr. Sample, Mr. Jenkins, Mr. Wood and myself.

Commissioner Harlan: What is the total capital stock of the company?

Mr. Frost: About $77,000 issued.

Commissioner Harlan: What bonded indebtedness has it?

Mr Frost: About $216,000, I think, is about the amount.

Commissioner Harlan: What does that cover?

Mr. Frost: That is notes for the purchase price of this track.

Commissioner Harlan: Then the total capitalization is $277,000?

Mr. Frost: No, the stock is $77,000, but they owe the note which they executed for the purchase price of this track which they bought from the lumber company.

Commissioner Harlan: Whose indebtedness is that, the railroad company's indebtedness?

5166 Mr. Frost: The railroad company owes that to the lumber company.

Commissioner Harlan: To the lumber company?

Mr. Frost: Yes.

Commissioner Harlan: And that is a lien on what property?

Mr. Frost: The railroad.

Commissioner Harlan: And the equipment?

Mr. Frost: Yes, whatever equipment belongs to the Mansfield Railway & Transportation Company.

Commissioner Harlan: Will you be good enough to file a copy of the contract between the lumber company and the logging company?

Mr. Frost: Yes, sir.

Commissioner Harlan: Judge Cowan, have you some questions?

Mr. Marble: I will ask that I. C. C. No. 5 and I. C. C. No. 2 of the Mansfield Railway & Transportation Company, and also switching tariff No. 4-C, which cancels I. C. C. No. 5, be placed in the record as exhibits.

(The papers so offered and identified, were received in evidence and thereupon marked Mansfield Railway & Transportation Exhibits Nos. 5, 6 and 7, Witness Frost, received in evidence January 26, 1911, and are attached hereto.)

5167 Mr. Garwood: Can this witness go through with the several companies he is interested in? I have one or two questions I want to ask, but I do not want to ask them until he gets through with all the companies.

Commissioner Harlan: He will be asked as to the others presently.

Mr. Cowan: Are those other companies to proceed while the witness is on the stand?

Commissioner Harlan: Yes, I think we might as well call them. If you have any questions to ask now——

Mr. Cowan: I have some questions as to this particular company at this time.

Commissioner Harlan: Very well, you may proceed.

Mr. Cowan: With regard to this milling in transit, I assume the milling in transit rate would be one published by the trunk line, and in that connection that they must have some regulations in the milling in transit tariffs, as I know they do have in the case of grain and other products which move on milling in transit, which leads me to ask the question, have you ever seen the tariffs on lumber of the Kansas City Southern and the Texas & Pacific, which I believe are your connections, which specify a milling in transit rate
5168 on lumber, which involves and includes the hauling of the logs by the tap line, I will call it, for the sake of a better name.

Mr. Frost: I do not think I have ever seen one. I am not very familiar with those things because it is a matter of detail and I do not keep up with it very closely.

Mr. Cowan: Several times in the hearing witnesses have testified that there was a milling in transit arrangement and that the rates or divisions allowed involved the payment for the haul of the logs In no case has any tariff of that character been filed that I know of, and I wondered if you had ever seen one or knew anything about it.

Mr. Frost: I am not familiar enough with it to say.

Mr Walter: I think it might be very well understood that all these tariffs are on file with the Commission and can be used to determine what the rate is.

Mr. Cowan: Of course we are bound to do it, but as we go through the hearing of a great many witnesses probably they are just as much mistaken as some others have been——

Mr. Walter: I myself know of tariffs which have milling in transit rates on logs which includes the logs down to the mill and the lumber out.

5169 Mr. Frost: Well, he asked me the question if I had ever seen them. I never have, but they might be in existence and I never have seen any of them.

Mr. Cowan: So far as you know the divisions which you get were not in fact based upon any such proposition as that, so far as you know.

Mr. Frost: All I know is we get a division on the lumber which we deliver.

Mr. Cowan: But my question is, so far as you know it is not based upon the milling in transit proposition, based on the tariff so far as you know.

Mr. Frost: I do not know.

Mr. Cowan: It was not done before the incorporation of this railroad company, that you know of, was it?

Mr. Frost: There was no lumber moved on the Mansfield Railway & Transportation Company until we commenced operations on that line.

Mr. Cowan: I thought you said there might be some lumber moved——

Mr. Frost: Some inbound but not outbound.

Mr. Cowan: Now the right of way of this railroad that we have under consideration, was that a donation by the lumber company and was there a deed to the right of way passed from the lumber

5170 company to the railroad corporation?

Mr. Frost: The deeds to the individual pieces of property as we went over them were taken to the lumber company or in my name individually, because some of the road was built there before we were ready to lay the track down there. That is, it was graded, and we bought the right of way from the individuals and paid them so much per acre for it. In one instance I think we paid about $150 for about half an acre.

Mr. Cowan: And that deed went to the railroad company?

Mr. Frost: Well, it is now the property of the railroad company. It might have been deeded from this owner to the lumber company, but it was for the purpose of the right of way.

Commissioner Harlan: I think we have all of those details, Judge Cowan.

Mr. Cowan: I overlooked one matter, in regard to the sale of your lumber and the handling of this product, that had better come in after he gets through the testimony of the other railroads, but I will want to ask something about it. I have several other questions which had better come after that. With whom was your agreement when you made the settlement with the Kansas City Southern and received the $9500?

Mr. Frost: With whom was the original agreement, you

5171 mean the original conference?

Mr. Cowan: With whom was the agreement made when you got the money?

Mr. Frost: It was in their accounting department. I had an arrangement with Mr. Edson and probably Mr. Smythe that we were to get a certain division and we commenced to ship the lumber

and this agreement was had before that time, and then when the thing rocked along there and was hung up in their office for some reason, I did not know why, until I understood they wanted to reduce those divisions and I would not accept it, then it was settled.

Mr. Cowan: And you settled on $9500 at a later period, upon an agreement you had made as to what the settlement should be at a previous date, that is the agreement was at a previous date.

Mr. Frost: Yes, sir, it was all agreed to, but in some instances they did not allow as much as the original arrangement.

Mr. Cowan: It was a compromise settlement made.

Mr. Frost: Well, it was less than they had agreed to pay, a less division.

Mr. Cowan: And what was the date of the settlement?

Mr. Frost: I don't remember. I never thought any more
5172 about it. We just made this arrangement and went ahead, and it was finally settled, and I don't remember just how long it was.

Commissioner Harlan: You got the check in May, 1907, did you not?

Mr. Frost: Our records show when we got it. It went to the Mansfield Railway & Transportation Company, and the books show when we got the money.

Mr. Cowan: Do you keep the operations of your business for this particular road and this particular mill separate from the operations of other mills and interests which you have?

Mr. Frost: Every department in our company is handled separately. Now this railroad company is handled just as though the Frost-Johnson Lumber Company had not a dollar's interest in it. The books are all separate, different employés, and they have their own accounts, make their own collections, pay their own bills, and everything is kept separately.

Mr. Cowan: Was the matter gone into with respect to the fact of separate employés of this railroad?

Commissioner Harlan: Yes, we went into those matters. That seems to be all.

Mr. Coleman: I would like to ask one question. This
5173 refers to the line of questioning by Examiner Marble about rebates prior to 1905. Your mill has always had more than one railroad as an outlet, more than one trunk line, is not that so?

Mr. Frost: Which mill?

Mr. Coleman: The mills along this particular railroad you are testifying about.

Mr. Frost: Well, we have had connections with the Kansas City Southern and the Texas & Pacific there all the time, yes, sir.

Mr. Coleman: I understand you did not deny that prior to 1905 rebates had been given; is that correct?

Mr. Frost: Well, I don't know about the rebates. There was an allowance made by some of these trunk lines if they would go out there and buy this timber; in other words, the trunk line said if you will go and build that railroad and buy that timber and bring the

tonnage there will be an allowance made to you of say two cents per 100 pounds or one cent or possibly more than that in some instances.

Mr. Coleman: Whenever that was made, it was as the result of competition between two trunk line railroads to get the business?

Mr. Frost: Not always.

5174 Mr. Coleman: Do you know of any cases where when your mill was served by one trunk line they voluntarily reduced the published tariff rate?

Mr. Frost: Well, they did not reduce the published tariff rate; they made an allowance for that haul.

Mr. Coleman: Where there was only one trunk line?

Mr. Frost: I know of one instance.

Mr. Coleman: Only one?

Mr. Frost: There might be more.

Mr. Coleman: What road was that?

Mr. Frost: It was on the Cotton Belt.

Mr. Coleman: I am speaking of your particular mill served by this road.

Mr. Frost: Well, that was our mill.

Mr. Coleman: That is all. As a general thing though, it is the result of competition between railroads?

Mr. Frost: Well, I do not know about that. I could not say.

Mr. Coleman: That is all.

Commissioner Harlan: That seems to be all. We will take up next the Louisiana & Pine Bluff.

Mr. Walter: This witness will not testify in that case, as he is not familiar with the details as is Mr. Johnson.

5175 Commissioner Harlan: We will call Mr. Johnson, but I would like to ask Mr. Frost to remain.

Mr. Frost, have you ascertained how many cars you shipped last year?

Mr. Frost: That is the number, 9,331, that were shipped last year.

Commissioner Harlan: Cars of lumber?

Mr. Frost: Yes, that is the total shipment from all the mills.

Commissioner Harlan: From all the mills?

Mr. Frost: Yes. Do you want just this particular mill, or all the mills? I understood you——

Commissioner Harlan: That is responsive to my question, all of your mills.

Mr. Walter: He has certain data there that he would like to file as an exhibit with his testimony that has not been covered, regarding outside business.

Commissioner Harlan: I so understood.

Mr. Walter: He has some personal memorandum on this, so he is going to furnish them later.

(Witness excused.)

5176 C. D. JOHNSON, was called as a witness herein, and having been duly sworn, testified as follows:

Direct examination:

Commissioner Harlan: Will you give your full name to the reporter?

Mr. Johnson: C. D. Johnson.

Commissioner Harlan: Where do you live?

Mr. Johnson: City of St. Louis.

Commissioner Harlan: What is your business?

Mr. Johnson: Lumber and short line railroads.

Commissioner Harlan: How long have you been engaged in the lumber business, and in what association or connection?

Mr. Johnson: Well, I have been in the business several years.

Commissioner Harlan: About how many?

Mr. Johnson: Eighteen or twenty years.

Commissioner Harlan: How long have you been connected in any capacity with short line railroads?

Mr. Johnson: Well, I should say ten years or longer.

Commissioner Harlan: And with what lumber concerns have you been associated?

Mr. Johnson: Well, I have been associated with several, but I am now President of the Union Saw Mill Company, Vice-presi
5177 dent of the Frost-Johnson Lumber Company, and I am a stock holder in the Carter-Kelly Lumber Company.

Commissioner Harlan: With what short line railroad are you now associated?

Mr. Johnson: President of the Louisiana & Pine Bluff Railroad.

Commissioner Harlan: How long have you been president?

Mr. Johnson: Ever since its construction.

Commissioner Harlan: Is that railroad owned by the Frost-Johnson Lumber Company?

Mr. Johnson: The stock is owned by the Union Saw-Mill Company, and the Union Saw Mill Company is owned by the Frost-Johnson Lumber Company.

Commissioner Harlan: So that really the three are practically one enterprise?

Mr. Johnson: Yes. Mr. Commissioner, if you will allow me, I have prepared a statement here that I can tell you all about that road, and the construction of it and the tracks that it has, and I can read it to you in five minutes and it will save a lot of time for all of us.

Commissioner Harlan: I was going to ask Mr. Marble to examine you, but perhaps that would shorten the time.

5178 Mr. Johnson: There are various contracts and quite a lot of things in connection with it, and I can read it to you and save a lot of time.

Commissioner Harlan: Very well.

Mr. Johnson: The Union Saw Mill Company was organized and incorporated in December, 1902, for the purpose of acquiring a large body of timber and timber land in Union County, Arkansas and Union Parish, Louisiana, and to engage in the manufacture of

lumber. Early in 1903 the Company commenced building a town and erecting its saw mill plants at a place now known as Huttig, Arkansas. As railroad facilities were necessary, a railroad company was organized and incorporated, which was known as the Little Rock & Monroe Railway Company, and the stockholders were substantially the same as those in the saw mill company. It immediately began to build its road from a connection with the El Dorado & Bastrop Railway, which is a part of the Iron Mountain, through the town of Huttig, to the city of Monroe, Louisiana, a distance of forty-four miles. At Monroe, connections were arranged with the V. S. & P. Railway as well as the Valley Division of the Iron Mountain Railway. Prior to the construction of this line, an
5179 understanding was had with the officials of the Iron Mountain Railway whereby, upon its being put into operation, certain divisions would be allowed on lumber tonnage.

By the early part of 1905 the road had been completed to the city of Monroe and terminal grounds purchased at that place; the steel had been laid to within three or four miles of Monroe and a steel draw bridge over the Ouachita River had been constructed. At this state, the officials of the Iron Mountain Railway Company signified the desire of their company to purchase the road, but we told them that we did not care to sell it for the reason that it was the key to our business and that we could not afford to sell the line. Negotiations followed, however, and as a result, the Iron Mountain purchased the road, and a contract between the Union Saw Mill Company and myself personally on one part and the St. Louis, Iron Mountain & Southern Railway Company on the other was entered into on March 18, 1905, under which all the stock and bonds of the Little Rock & Monroe Railway Company were sold to the St. Louis, Iron Mountain & Southern Railway Company, for the following considerations:

First, That the Iron Mountain Railway would secure the
5180 execution by the Little Rock & Monroe Railway Company, the El Dorado & Bastrop Railway Company and the Farmerville & Southern Railway Company of contracts granting the Union Saw Mill Company, or its assigns, the right to operate logging trains, with its own engines and crews, and under certain conditions and rules, over the lines of these roads at a charge of 35¢ per train mile.

Judge Cowan: May I interpose, that if the witness will give the dates of the transactions as he goes along, it will save us considerable trouble.

Mr. Johnson: I have given you the dates.

Commissioner Harlan: He has given most of them, but you can interrupt him where a date is omitted.

Mr. Johnson: This will go right into the record. I have given this gentleman a copy of it, and the dates are here, I think.

Examiner Marble: When was the road incorporated?

Mr. Johnson: If you will let me finish this.

Commissioner Harlan: We will go through with the statement and read it slowly, and we may interrupt with questions that are necessary, and then we will put further questions.

Mr. Johnson: That was the first consideration.

5181 Second. Prior to the sale of the Little Rock & Monroe Railway, the management of the Union Saw Mill Company had for a long while known of a large tract of timber land lying north of Huttig, and it had known approximately at what price this tract could be purchased. The Union Saw Mill Company already owned a great deal of timber land in that locality, and had the Little Rock & Monroe Railway not been sold, that road would have been extended northwardly to reach those holdings. However, at the time negotiations for the sale of the road were being conducted, the officials of the Iron Mountain Railway expressed the desire that the Union Saw Mill Company purchase the large track just mentioned, and also, as far as possible, whatever other timber could be had in its operating territory that could be railed to Huttig for manufacture into lumber. This we agreed to do, and I may add here that as a result, and in good faith of this understanding as to buying additional timber, the Union Saw Mill Company has since increased its holdings by many thousands of acres and has invested an immense amount of capital in timber property. As regards the particular tract in question, we immediately took an option on the

5182 same which we later exercised and the property was purchased at a price upwards of $1,200,000.00. As there were no railroad facilities for bringing out this timber, in closing the sale of the Little Rock & Monroe Railway, we tried to get the Iron Mountain people to agree to extend that road from Huttig so as to develop the territory to the north and northwest. They told us, however, that they preferred we build a line ourselves. Consequently a provision was made in the contract of sale whereby the Union Saw Mill Company and I personally became obligated to organize or cause to be organized a railroad corporation for the construction of a line of railroad which should be in effect an extension of the Little Rock & Monroe Railway northwardly from Huttig, Arkansas, so as to reach all of the timber in that direction. The contract provided further that the proposed new railroad be constructed and incorporated in such a way as to justify between it and the St. Louis, Iron Mountain & Southern Railway and its auxiliary lines the same division of rates on forest products as were then in effect from the Little Rock & Monroe Railway Company. In accordance with these provisions the present Louisiana & Pine Bluff Railway Company was organized and incorporated in March, 1905, with a

5183 capital stock of $300,000.00. The stock was subscribed by substantially the same people as were interested in the Union Saw Mill Company, and as the saw mill company owned all the terminals and railroad facilities at Huttig, as well as the engines, cars and other equipment that had been used on the Little Rock & Monroe Railway, all that property was turned over to the Louisiana & Pine Bluff Railway Company for stock in the new corporation, which stock is still held by the Union Saw Mill Company.

Third. The remaining consideration for the sale of the Little Rock & Monroe Railway, in addition to the considerations already

recited, was cash. This cash payment by the St. Louis Iron Mountain & Southern Railway Company amounted to exactly the actual cost of the road to us as shown by the books, records and receipted bills of the Little Rock & Monroe Railway Company. Therefore we received no profit whatever from the sale.

Copies of all the contracts I have mentioned are now on file with the Interstate Commerce Commission at Washington, having been sent to Secretary Edw. A. Moseley, on November 25, 1908.

5184 During 1910 an industry was located on the rails of the Louisiana & Pine Bluff Railway Company in which none of the stockholders, either of the Railway Company or of the Union Saw Mill Company are interested,—namely, the Wisconsin Lumber Company. This Company has erected a large saw mill plant at Huttig for the manufacture of hardwood lumber and other forest products, and its output amounts to one-third of the total lumber production at that point. Being located on our tracks, that industry is entirely dependent upon our road for transportation facilities and we are well prepared to serve them as our equipment is especially adapted to handling their particular kind of business.

The Louisiana & Pine Bluff Railway Company is subject to the federal Act regulating Interstate Commerce and the rules and regulations of the Interstate Commerce Commission, in addition to being bound by the laws of the State of Arkansas in intra-state business, and is endeavoring to comply with the same.

In conclusion I wish to state that all the contracts with the Iron Mountain Railway Company before mentioned, and all the understandings in connection with them, have so far been faithfully carried out and complied with by the Iron Mountain Railway Company, as well as ourselves.

5185 Here is a map that shows those lines and shows where these trackage contracts extend. (Producing map.)

Commissioner Harlan: Mr. Johnson, we will proceed on this point in the regular order. Mr. Marble, if you have some questions to put to this witness?

Examiner Marble: Mr. Johnson, in Washington we tried to prepare a map of this road from your annual reports and from the commercial maps at our disposal, from such data that we had. I would like you to look at it and see if it is correct, and if not indicate the way in which it should be corrected. (Showing witness map.)

Mr. Johnson: It is partially correct, part of it is there. It is correct as far as it goes.

Examiner Marble: What is there to be added?

Mr. Johnson: There is a connection in there between Dollar Junction and Huttig. Here is a line which we just made to go off this line, and these lines belong to the Iron Mountain (indicating).

Examiner Marble: If you will kindly mark this map and state the points.

Mr. Johnson: That is El Dorado, Arkansas there, and here is Dollar Junction right here (indicating).

5186 Examiner Marble: From El Dorado to Dollar Junction, you say that line belongs to the Iron Mountain?

Mr. Johnson: Yes sir, that is a line that we have trackage contracts on from El Dorado to White. I have one of these contracts that is on file with you, with the Commission. This line that we built, the Little Rock & Monroe Railway——

Examiner Marble: That is shown on it, is it not?

Mr. Johnson: Yes.

Commissioner Harlan: Well, between what points?

Examiner Marble: Between Huttig and this point here (indicating)?

Mr. Johnson: Through Huttig, yes.

Examiner Marble: That is shown on this map?

Mr. Johnson: Yes sir, and that is known as the Farmerville & Southern. That belongs to the Iron Mountain.

Examiner Marble: You refer there to the track running from Farmerville and joining the——

Mr. Johnson: That joins the road that we built—Mr. Harding, when he was with the Missouri Pacific, made an arrangement with me to use that piece of the Little Rock & Monroe.

Commissioner Harlan: Between what points?

5187 Mr. Johnson: Between Litro and Felsenthal, under the usual trackage arrangement.

Commissioner Harlan: This is substantially correct, then, this map?

Mr. Johnson: I think so. I have not looked at it closely, I would not say that it was. I think that it is correct of these lines, but I do not think that you have got the Louisiana and Pine Bluff on there correctly. I don't think that you have got that on. I think the other lines are all right.

Examiner Marble: Can you indicate in what respect these are wrong?

Mr. Johnson: You can look at this and you can see exactly where the Louisiana & Pine Bluff is located. The Louisiana & Pine Bluff is located from Huttig north through Dollar Junction.

Examiner Marble: How far north of Dollar Junction?

Mr. Johnson: About five miles.

Examiner Marble: Is the trackage constructed?

Mr. Johnson: The right of way and the grade is completed, that is all done, but I don't know whether they have laid the steel on it yet or not.

Examiner Marble: How far north of Dollar Junction

5188 have you got a railroad?

Mr. Johnson: It is not in operation very far north of there.

Examiner Marble: More than 200 feet?

Mr. Johnson: Oh, yes, more than 200 feet.

Examiner Marble: How far?

Mr. Johnson: I should say probably half a mile.

Examiner Marble: What other completed railroad have you that we have not shown?

Mr. Johnson: We have got this line through here (indicating).

Examiner Marble: That is what point?

Mr. Johnson: From Huttig to what we call E. & V. Junction, about 25 miles.

Examiner Marble: Who owns that track?

Mr. Johnson: Louisiana & Pine Bluff.

Examiner Marble: Does the Huttig Lumber Company own that track?

Mr. Johnson: No, sir, there is no Huttig Lumber Company.

Examiner Marble: I mean the Huttig Logging Company?

Mr. Johnson: No sir.

Examiner Marble: It does not?

5189 Mr. Johnson: No, the Huttig Lumber Company—the Louisiana & Pine Bluff Railroad Company own all this steel, and they furnish the Huttig Logging Company with the steel, and they do the balance of the work on these logging lines. These are log spurs, strictly log spurs. They are constructed by the logging company.

Commissioner Harlan: Who owns this line from Huttig?

Mr. Johnson: The Louisiana & Pine Bluff.

Commissioner Harlan: Does it own the real estate?

Mr. Johnson: Owns the track.

Commissioner Harlan: Does it own the real estate under the tracks?

Mr. Johnson: Yes sir.

Commissioner Harlan: And owns the steel?

Mr. Johnson: And the road bed.

Commissioner Harlan: And the sleepers?

Mr. Johnson: Yes.

Commissioner Harlan: Who paid the bill for the construction?

Mr. Johnson: The Louisiana & Pine Bluff built it. The Louisiana & Pine Bluff furnished the steel on that track, but the road bed and ties is owned by the logging company.

5190 Commissioner Harlan: When you said that I thought you meant the small logging road running into this——

Mr. Johnson: There is about ten miles of track right there.

Commissioner Harlan: Logging track?

Mr. Johnson: Yes, logging track strictly.

Mr. Coleman: I would like to ask if that logging road is incorporated?

Mr. Johnson: Yes, sir.

Examiner Marble: What is the relationship of the Louisiana & Pine Bluff Railroad Company to these trackage rights over the Iron Mountain tracks?

Mr. Johnson: Those trackage rights, the Louisiana & Pine Bluff Railway are operating on its own tracks, and over these roads the Union Saw Mill Company has trackage rights, and those trackage rights have been confined to the Louisiana & Pine Bluff Railway Company. The Louisiana & Pine Bluff Railway Company pays all the bills for the trackage there.

Examiner Marble: When were they assigned?

Mr. Johnson: I don't know whether they have ever been assigned formally or not.

Examiner Marble: Has the Union Saw Mill Company
5191 any right to assign those contracts?

Mr. Johnson: Yes, sir.

Examiner Marble: To anybody?

Mr. Johnson: With the consent of the Iron Mountain.

Examiner Marble: Has it ever gotten that consent?

Mr. Johnson: Well, I will tell you. I went to their legal department and asked if that could be done, and they said they would look into it and attend to it, and I never heard from them any more about it. This was some two or three years ago, and I was at Huttig one time and I asked to see those bills, and I found that they were presenting the bills to the Louisiana & Pine Bluff Railway, which was all right, so we never paid any more attention to whether they ever assigned them in writing or not.

Examiner Marble: The Iron Mountain began to render bills to the Louisiana & Pine Bluff Railway Company and you took that as an indication that the assignment had been made?

Mr. Johnson: Yes, sir.

Examiner Marble: And those bills for 35 cents per mile of that mileage are now paid by the Louisiana & Pine Bluff, are they?

Mr. Johnson: They always have been, I think. You un-
5192 derstand I am not familiar with all the little details. Mr. Scott is here and he will testify as to the details, but I think they have always been paid by the railroad.

Examiner Marble: What is the extent of that trackage right, what is your company hauling over that track, that is, what has it a right to?

Mr. Johnson: The contracts speak for themselves, and they have been on file with the Commission for two or three years, and they have the right—they have no right to haul anything except logs or forest products.

Examiner Marble: I think what Mr. Johnson says of the contract speaking for itself is quite fair, and I will go to that in a moment. Did you never have trackage rights over all of the tracks owned by the Iron Mountain, the tracks that were formerly the El Dorado & Bastrop, formerly the Little Rock & Monroe, formerly the Farmerville & Southern. They are all under the same——

Mr. Johnson: About 120 miles of them, I think.

Examiner Marble: They are all under the same conditions?

Mr. Johnson: Exactly the same, only the name of the corporation is changed.

Examiner Marble: There are three different contracts?

5193 Mr. Johnson: There was at that time; there was three different corporations, you see. There were the El Dorado & Bastrop Railway, the Farmerville & Southern Railway, the Little Rock & Monroe Railway, but they have since all been merged by the Iron Mountain into one company, all Iron Mountain, but the contracts are duplicates, triplicates, they are all alike.

Examiner Marble: Have you a copy of your letter of November

17, 1904, to Mr. Clarke, the letter in which you made the proposition for the sale of the Little Rock and Monroe Railway? Have you the correspondence files with you in that regard?

Mr. Johnson: No sir, I think I have a copy of the letter though, here.

Commissioner Harlan: What is the date of the letter?

Examiner Marble: November 17, 1904, written to Mr. C. S. Clarke, Vice-President of the Missouri Pacific Railroad.

Mr. Johnson: I have not got it here.

Examiner Marble: With your permission—it is a rather long letter, describing the road substantially in harmony with the statement that you have made here.

5194 Mr. Johnson: A letter from me to Mr. Clarke?

Examiner Marble: A letter from you to Mr. Clarke, from you as President of the Little Rock & Monroe Railway Company. It was before you made the sale and before the counter proposition which was made by Mr. Clarke. It is an offer to sell the Little Rock & Monroe, and I might read the portion that deals with this matter of the division, and of course I will read as much of it as you want, but I don't think that you will want any other part of the letter.

Mr. Johnson: I don't know as I can remember the details, the details of that letter there. We have a contract that is on file with the Commission, setting out the details of the sale.

Examiner Marble: I will read a portion of that letter——

Mr. Johnson: There was some correspondence about it, but I don't know whether that letter had anything to do with that contract.

Examiner Marble: Let me read it and see perhaps:

"Dear Sir: In line with the conversation had with you yesterday, as per your request I herewith make you the following proposition for the purchase by you of the Little Rock &

5195 Monroe Railway. I have decided I would sell the line for the following considerations:

"First: The continuations of the divisions that are now in effect which is five cents per hundred pounds on lumber delivered to your line.

"Second: The free use of the tracks from Felsenthal to the River, a distance of about thirty miles."

And then you go on with a financial history of the road which is substantially in harmony with the matter you read here. Further over in that letter you say:

"You will understand that the main essence of this sale would be the continuation of the present divisions." Do you recall that letter?

Mr. Johnson: Well, I do not; I guess that is probably all right.

Examiner Marble: It purports to be——

Mr. Johnson: That was part of the consideration of the sale, was the continuance of those divisions, part of the purchase price for the railroad.

Examiner Marble: In March, 1905——

Mr. Johnson: What was the date of that letter, Mr. Marble, the one you just read.

Mr. Walter: November 17, 1904.

5196 Examiner Marble: That is November 17, 1904, the first letter. Then on March 8, 1905, Mr. Clarke wrote you a letter containing a counter proposition.

Mr. Johnson: Yes.

Examiner Marble: Referring to a conference evidently which you had after writing this letter:

"Referring to our conference of this morning, beg now to advise you that subject to the approval of our President and Board of Directors, we will purchase from you all of the issued and outstanding capital stock of the Little Rock & Monroe Railway Company," and the entire property upon certain terms set forth here. Now, I am going to paragraph four, the paragraphs being numbered in the center.

Mr. Johnson: If you would not mind, I would rather you would read it all. I cannot get the sense of the letter unless you read it.

Examiner Marble: I am perfectly willing to do so, of course.

Mr. Jeffery: I handed in a copy of that letter to Mr. Burchmore the other day, and perhaps you can follow it.

Commissioner Harlan: I would suggest that Mr. Johnson look at that. Perhaps he may not want it all read, but we can

5197 put a copy into the record.

Mr. Johnson: There are no secrets here at all.

Examiner Marble: I do not mean that, but I don't think those first paragraphs have any relation to anything that is under consideration.

Mr. Garwood: Let it be understood that these letters are put into the record.

Examiner Marble: I go to paragraph four here. Do you want it all read?

Mr. Johnson: I prefer you read it all.

Commissioner Harlan: Let both letters be put into the record as exhibits to the testimony of this witness.

(The letters referred to are on pages 89, 90, 92 and 93 of a book in the possession of the Examiner, and were not marked, but are in the words and figures following, to-wit:)

Little Rock and Monroe Railway Co.

ST. LOUIS, MO., *Nov.* 17, 1904

Mr. C. S. Clarke, Vice-President, Missouri Pacific Railway, City.

5198 DEAR SIR: In line with the conversation had with you yesterday, and as per your request, I herewith make you the following proposition for the purchase by you of the Little Rock & Monroe Railway. I have decided that I would sell the line for the following consideration:

First, the continuation of the divisions that are now in effect, which is five cents per hundred pounds on lumber delivered to your

line. Second, the free use of the tracks from Felsenthal to the River, a distance of about thirty miles. On a basis of these considerations, we would be willing to accept $17,500.00 per mile, main line, for the road from Felsenthal to Monroe; the approximate distance is forty-four miles, which would amount to $770,000.00. We owe $525,000.00, which will become due January, 15th, 1907. Therefore, the basis of payment would be as follows: $245,000.00 cash, and you assume the $525,000.00, due on the date above mentioned. You understand, the line is not yet complete, but all the work is done from Felsenthal south thirty miles, and the track is now in good shape, of which our Farmerville Southern is using about six miles. On the thirtieth mile we are constructing a steel bridge across the Ouachita River which will be done about January 1st, 1905. All the grading and trestle bridging from there to
5199 Monroe has been finished. We would turn over to you the line in its entirety from Felsenthal to Monroe, with the exception of the sidings at our plant at Huttig. Those sidings we would reserve as well as all equipment. Therefore the property that we would sell you would be the road without any equipment whatever, but including all sidings with the exception of those at Huttig, which were built mainly for the use of the Union Saw Mill Co.

It would be necessary to incorporate in the contract a clause giving us the privilege of making connections with the main line at any point the Union Saw Mill Company might deem necessary for the connection of her logging spurs. You must take into consideration that the Little Rock & Monroe Railway is not constructed on the lines of a logging road. We carry a 6/10 maximum grade, 3 degree maximum curvature, 14 ft. crown roadbed, 30 feet in the cuts, and are putting down 18 standard White Oak ties to the rail, or about 3200 ties to the mile. The line is laid with 56 lb. relay steel purchased from the Cotton Belt. The steel is all of one punching and of one make.

The bridge across the Ouachita River is a steel structure-
5200 draw span 308″ 10′, rigid span 295″ 0′, with an 80 ft. Girder plate. The substructure consists of three concrete piers, besides the cylinder piers on the banks. I hereto attach plans of the bridge which is being erected by the Missouri Valley Bridge & Iron Works. You will understand the superstructure was purchased of the Missouri Pacific. It was considered too light for your new heavy engines on the main line, but we decided after having this bridge examined by competent engineers that it would be all right for several years on our line. The substructure is being put in by competent people and is being built so that in the event we sell this line and the purchasers find that this bridge is too light, they can change the same without interfering with the substructure.

You asked me for an option for thirty days. Will say that there is no use drawing a regular option, but you can have a reasonable length of time to decide whether you want the property or not. Will say, however, that I would like to know before thirty days for the reason that I am now about to place an order for some new

equipment—two engines, passenger coaches, box cars and flat cars.
Of course, in the event of a sale to you, we would not need
5201 the equipment. We have also made plans for a depot at Monroe. In the event of a sale to you this would be unnecessary as you would undoubtedly prefer to handle Little Rock & Monroe business through one depot. I do not like to ask you to be in a hurry, but you can readily see from our standpoint that it is necessary to act promptly in this matter, that is to say, it is necessary to act promptly for our mutual benefit. If you buy the line, you would not care to take over a lot of equipment that we would buy, as it might not suit you, and on the other hand, you would not care to have us build a depot in Monroe as you could undoubtedly handle the business cheaper through the one. You will understand that the main essence of this sale would be the continuation of the present divisions. We could not think of accepting this price for the road otherwise, for the reason that we have fortified it with enough tonnage to make it a paying proposition even if we never handled a pound of freight; for anyone else but ourselves. The tonnage is estimated as follows: 1,000,000,000 ft. of pine, 400,000,000 of hardwoods, total timber tonnage estimate 5,000,000,000 lbs. or in carloads of 40,000 capacity, 125,000 cars. In addition to the
5202 large timber tonnage, the lower portion of the Little Rock & Monroe Railway traverses a rich Cotton producing country with which you are perhaps familiar. If you are not, your Superintendent in that locality can give you sufficient information.

In order to produce the lumber tributary to this line, it will necessarily require a large amount of supplies such as feed, merchandise, tools, and labor. Labor, of course, is passenger traffic.

In regard to the indebtedness on the line, will say that 30 year 5% gold bonds have been provided for at the rate of $15,000.00 per mile on the main line and extension, copy of mortgage covering these bonds is submitted herewith. We would deliver to you all the bonds and all the stock together with the deeds for right of way, free and clear of all labor liens and indebtedness of all kinds, except as above mentioned.

Yours truly,

(Signed) C. D. JOHNSON,
President.

ST. LOUIS, MO., *March* 8, 1905.

C. D. Johnson, Esq., and Union Saw Mill Company, C. D.
5203 Johnson, President, St. Louis, Missouri.

DEAR SIRS: Referring to our conference of this morning, beg now to advise you that subject to the approval of our President and Board of Directors we will purchase from you all of the issued and outstanding capital stock of the Little Rock & Monroe Railway Company, and all of the mortgage bonds of said Company for such sum of money as in the aggregate will amount to the actual cost of the construction and completion of said railway, together with such sum as you have actually paid out as interest on actual cost of construction, or any part thereof.

This offer of purchase, conditional upon the approval aforesaid, is made with the following distinct understanding, namely:

(1) The actual cost of said Railway, principal and interest, shall be ascertained and agreed upon by representatives of your interests and our own who shall carefully investigate the matter and report thereon.

(2) You are to turn over to our interests all of said capital stock and bonds and give to our interests possession of said Railway
5204 free from all claims, demands, judgments, liens, assessments and taxes and other adverse interests, except the lien of said first mortgage of the Railway Company under which bonds have been issued.

(3) The right-of-way for the entire road shall be of the uniform width of not less than one hundred (100) feet with necessary additional right-of-way for station grounds and appurtenances. Title to all the right-of-way and depot grounds above mentioned to be perfect in the Little Rock & Monroe Railway Company and free and clear of all mortgage liens and other encumbrances, except the lien of the first mortgage of the Little Rock & Monroe Railway Company, and said right-of-way as regards any restrictions or conditions shall be made fully satisfactory to the undersigned and the interests which he represents.

(4) You shall organize a railroad corporation under the laws of the State of Arkansas for the construction of a line of railroad which shall be in effect an extension of the Little Rock and Monroe Railway northwardly from Huttig, Ark., near the present northern terminus of the Little Rock & Monroe Railway to reach timber lands now owned by you or by the Union Saw Mill Company, or in the interest of either. Such railroad shall be so incorporated and
5205 constructed as to justify between it and St. Louis, Iron Mountain & Southern Railway, and its auxiliary lines, the same divisions of rates on forest products as are now in effect between said Little Rock & Monroe Railway and said St. Louis, Iron Mountain & Southern Railway Company, and its auxiliary lines. All tonnage which can be controlled by you or the Union Saw Mill Company, or by the Railroad corporation to be organized, as aforesaid, shall be delivered to the St. Louis, Iron Mountain & Southern Railway Company, and its auxiliary lines exclusively. We are to have the right at any time to purchase from you all of the issued and outstanding capital stock of such new railroad corporation, and all outstanding bonds of such corporation, or to purchase the railroad itself, upon paying to you the actual cost thereof with such interest as you may have actually paid thereon.

(5) You are to have the right to operate logging trains on the Little Rock & Monroe Railway with your own crews, cars and motive power, but only in such manner and under such rules, regulations, terms and conditions as shall be fixed and established by our interests and not otherwise. You shall pay a trackage charge for
5206 use of said line not exceeding thirty-five (35) cents per train mile for trains not exceeding thirty-five (35) cars drawn with one engine, or any fractional part of such a train.

(6) You are to have the right to construct, at your own sole cost and expense, logging spurs from the Little Rock & Monroe Railway as will be found necessary for the development of your logging business, but always subject to rules, regulations, consent, supervision and control of our interests as to point of connection and manner of operating the same. We will put in all connections which we may deem reasonably necessary at your expense at such points as we may indicate, it being understood, however, that all tonnage from any spurs so constructed or from any and all property which you or your associates may control or be interested in on or in connection with the Little Rock & Monroe Railway shall be exclusively given to said Little Rock & Monroe Road and to St. Louis, Iron Mountain & Southern Railway, and its auxiliary lines.

(6) The term "auxiliary line" or "lines" as used in this memorandum, is understood to be a line or lines of a railroad coporation in which the St. Louis, Iron Mountain & Southern Railway Company either owns or controls a majority of the issued and
5207 outstanding capital stock.

It must be distinctly understood that this is merely a preliminary proposition subject to the approval of our President and Board of Directors, and that if same is approved all of the matters covered by this memorandum shall be included in a carefully prepared contract or contracts in detail which must be satisfactory in form to counsel for our company. It must be understood that said contract or contracts will be much more full in their terms than this memorandum and will cover all matters contained herein and in addition thereto all such incidental matters as our counsel may deem necessary in order to carry out the spirit of this proposition and to afford adequate protection to the interest of our Company in every way.

Yours truly,

C. S. CLARKE,
Vice-President."

Examiner Marble: Simply the Commissioner will note that the first paragraph is that the actual cost of the railway shall be ascertained by mutual appraisment; and the second paragraph is that Mr. Johnson's company was to turn over to the Iron Moun-
5208 tain interests all of the capital stock and bonds and give immediate possession and so forth; and the third paragraph was a statement referring to the width of the right of way, and that title to the right of way, station grounds, etc., shall be free and clear of mortgage, liens and encumbrances.

(4) You shall organize a railroad corporation under the laws of the State of Arkansas for the construction of a line of railroad which shall be in effect an extension of the Little Rock and Monroe Railway northwardly from Huttig, Ark., near the present northern terminus of the Little Rock & Monroe Railway to reach timber lands now owned by you or by the Union Saw Mill Company, or in the interest of either. Such railroad shall be so incorporated and constructed as to justify between it and St. Louis, Iron Mountain &

Southern Railway, and its auxiliary lines, the same divisions of rates on forest products as are now in effect between said Little Rock & Monroe Railway and said St. Louis, Iron Mountain & Southern Railway Company, and its auxiliary lines. All tonnage which can be controlled by you or the Union Saw Mill Company, or by the Railroad corporation to be organized, as aforesaid, shall
5209 be delivered to the St. Louis, Iron Mountain & Southern Railway Company, and its auxiliary lines exclusively. We are to have the right at any time to purchase from you all of the issued and outstanding capital stock of such new railroad corporation, and all outstanding bonds of such corporations, or to purchase the railroad itself upon paying to you the actual cost thereof with such interest as you may have actually paid thereon."

Mr. Johnson: You will find that differs in the bill of sale. That is, provided we went to sell the road.

Examiner Marble: Do you know why that last stipulation was put into paragraph four, that this road should be sold to the Iron Mountain, if you ever should want to sell it.

Mr. Johnson: Well, I suppose they wanted first the right to buy it. It is bound up in the bill of sale. The difference between the bill of sale and that letter is that they have the right to buy it provided we want to sell it.

Examiner Marble: I will acknowledge that there is a difference between this offer and a bill of sale.

Mr. Johnson: Under that letter, after that, it had a right to buy it in.

5210 Examiner Marble: You refused to allow them to buy it in.

Mr. Johnson: Yes, sir.

Examiner Marble: Are you familiar with the fact that one consideration in the Iron Mountain's deliberation upon this matter for the purchase of the Little Rock & Monroe Road was the fear that you would sell it to the Rock Island?

Mr. Johnson: Well, I don't know what thought was in their minds, you know, I could not anticipate it.

Examiner Marble: Was that discussed with you, between Mr. Russell, Mr. Harding and yourself?

Mr. Johnson: No, I never had anything to do with Mr. Russell on the sale of that road. That negotiation was all carried on with Mr. Clarke. I built the line while Mr. Harding was in charge of the road, but I sold it after Mr. Clarke came into the road.

Examiner Marble: Did it come to your knowledge at that time that they were concerned for fear the Rock Island would buy that road and thus secure this timber tonnage?

Mr. Johnson: Well, I don't know. There were two reasons for it as far as that is concerned. That was a good road, a well constructed road if they could use it, and it had connections
5211 with the V. S. & P., at the lower end, and it might have connections onto the Rock Island at the north end, that might have happened, but then I do not know what they anticipated when though bought it.

Examiner Marble: Did it come to your knowledge that they took that into consideration?

Mr. Johnson: No, I don't ever remember any conversation along those lines at all. They seemed to fear the V. S. & P. more than anything else. They were afraid the tonnage would go out that way.

Examiner Marble: This letter of the 8th, one paragraph of which I have just read, bears this addition:

"We hereby accept the above conditional proposition and agree that if the same is approved as therein specified we will faithfully comply with all and singular the terms and conditions thereof as therein expressed, and will execute such contract or contracts as may be necessary to fully carry out the spirit and intent of the proposition which is here and now definitely accepted by the undersigned."

Was that signed by you, do you know?

Mr. Johnson: Well, I could not say, sir. What was the
5212 date of that letter you just read?

Examiner Marble: March 8, 1905.

Mr. Johnson: I expect it was signed by me. I don't know. I carried on the negotiations for the sale of the road. I would say that probably it was signed by me.

Examiner Marble: Now, on March 18, 1905, you have already given that as the date the contract for the sale of the Little Rock & Monroe was made. The Little Rock & Monroe corporation was a party to that contract, the date for the sale by the Union Saw Mill Company and Mr. Johnson of all of its stocks and bonds, and that that carried with it the property.

Mr. Johnson: Yes, sir.

Examiner Marble: And the corporation as well. Paragraph nine of that contract provides that:

"(9) Said party of the second part will further secure the execution by said Little Rock and Monroe Railway Company of an agreement with the Union Saw Mill Company, granting to said Union Saw Mill Company the right to operate logging trains on the Little Rock and Monroe Railway, with its own crews, cars and motive power, but only in such number and under such rules, regulations, terms and conditions as may be fixed and estab-
5213 lished by said Little Rock and Monroe Railway Company after the transfer of the stock of said Little Rock and Monroe Railway Company to the party of the second part, or to such person or corporation as its may designate, as hereinbefore provided, and after the resignation of the present directors and officers of said Little Rock and Monroe Railway Company and the election in their stead of such persons as may be designated as directors and officers of said Little Rock and Monroe Railway Company by the party of the second part, as hereinbefore provided, and such trackage agreement shall provide for the payment by the Union Saw Mill Company to said Little Rock and Monroe Railway Company of thirty-five (35) cents per train mile for trains not exceeding thirty-five cars."

Mr. Johnson: What was that, the letter?

Examiner Marble: No, this is the contract.

Mr. Walter: The contract of March 18, 1905, between the Union Saw Mill Company and the Iron Mountain.

Examiner Marble: These trackage rights were made later, in the following July.

Mr. Johnson: Yes, sir, they were substantially agreed to in the bill of sale, but the details of the contract were not worked
5214 out until later.

Examiner Marble: And this contract also contains a provision for the exclusive tonnage, that is, all tonnage originating upon any and all of said spurs to be constructed by the Union Saw Mill Company, and to connect with this Iron Mountain track, that is, all of that tonnage should be delivered to the Iron Mountain.

Mr. Johnson: Yes, sir.

Examiner Marble: For further transportation.

Mr. Johnson: Yes, sir.

Examiner Marble: And that contract was made by Mr. C. D. Johnson, the Union Saw Mill Company, by Mr. Johnson, its president, the St. Louis, Iron Mountain & Southern Railway Company by Mr. George J. Gould, its president. Now, the next step was the contract of July 19, 1905, between the St. Louis, Iron Mountain & Southern Railway Company and the Little Rock & Monroe Railway Company, parties of the first part, and the Union Saw Mill, party of the second part, covering the trackage rights, that is your memory of it, is it?

Mr. Johnson: Yes, sir.

Mr. Cowan: Better put the substance of the contract in
5215 the record so that the record will have it.

Examiner Marble: Contract dated July 19, 1905, between the St. Louis, Iron Mountain & Southern Railway Company, Little Rock & Monroe Railway Company and the Union Saw Mill Company, granting to the Saw Mill Company the right to operate its logging trains, etc., over the lines of the Little Rock and Monroe Railway Company, between Felsenthal station, Arkansas, and the city of Monroe, Louisiana. That covers the Little Rock and Monroe track which you had sold in the preceding April?

Mr. Johnson: Yes, sir.

Mr. Cowan: What was the amount to be paid?

Examiner Marble: Thirty-five cents per train *mail* for a train not exceeding 35 *miles*.

Mr. Cowan: Excuse me for interrupting you.

Examiner Marble: That is all right. With the consent of everybody I will drop all the inducement, and come to the terms of the contract. Paragraph numbered first states:

"First. Said Little Rock and Monroe Railway Company hereby grants to said Mill Company the right, with its own locomotives and crews and with its own employés, to operate its logging trains over the line of said Little Rock and Monroe Railway Com-
5216 pany between Felsenthal Station and the city of Monroe, Louisiana, on the line of said Railway, for the purpose of transporting logs and other forest products to the saw mill plant

of said Mill Company at Huttig in the County of Union, State of Arkansas, and also for the purpose of hauling to and from its logging camps, boarding cars, log loaders and tools actually used by the Mill Company's employés at such logging camps, and coal for the Mill Company's locomotives, and for transporting from the store of said Mill Company at Huttig, Arkansas, to the logging camps of said Mill Company, feed and provisions for the men and horses actually engaged in work of logging at such camps, and also the employés of said Mill Company actually engaged in work at such logging camps, but not including herein general merchandise or persons other than those specifically mentioned above. The regular tariff rates of the Little Rock and Monroe Railway Company shall be paid to said Railway Company by the Mill Company on all other merchandise and all other persons transported over the rails of said Railway Company by the Mill Company. It is expressly understood and agreed that whenever the provisions of this section are broken by the Mill Company, the Railway Company shall thereafter
5217 have the right, at its option, to charge, and the Mill Company shall pay, full tariff rates on all merchandise, supplies, tools, machinery and passengers hauled over its rails by the Mill Company."

The seventh paragraph grants to the Mill Company "the right to build at its own sole cost and expense such spur tracks as may be deemed necessary by said Mill Company, for the purpose of reaching its timber lands adjacent to the line of said Little Rock and Monroe Railway Company," etc., provided that conections are to be made at the expense of the mill.

"Ninth. The Mill Company expressly covenants and agrees that it will use that portion of the tracks of the Little Rock and Monroe Railway Company, a right to the use of which is covered by this agreement, solely for the purpose of conveying logs, timber and other forest products from the lands adjacent to the line of railway of said Little Rock and Monroe Railway Company, to the saw mill plant of said Mill Company hereinbefore mentioned, for the purpose of manufacturing such logs and timber into lumber or other forest products at such saw mill plant. And said Mill Company fur-
ther covenants and agrees that it will use in such traffic only
5218 its own locomotives and cars and that in no event will it haul over the tracks of said Little Rock and Monroe Railway Company, or any portion of the same, more than thirty-five cars in a single train with one locomotive."

The tenth paragraph contains a covenant for the exclusive tonnage to the Iron Mountain Road by the Mill Company, and that any timber lands sold shall carry this provision along with it as a condition of the sale, so that the purchaser buying the timber land then belonging to the Union Saw Mill Company would equally be bound to ship all the product over the lines of the Iron Mountain Road.

Mr. Cowan: Is there a provision in regard to the rate?

Examiner Marble: I should say from my memory of this contract, there is no provision in it either way regarding the rate *of* to

be charged for the transportation of lumber or logs by the Iron Mountain Road or by you. There is a provision for thirty-five cents per train mile, but that is the only provision governing the charge for transportation.

Mr. Johnson: I do not remember about that particular
5219 point.

Examiner Marble: The bill of sale of the Little Rock & Monroe Railway, however, did provide that the Iron Mountain should maintain the Felsenthal rates from Huttig, did it not, provided that the rates from Huttig should not be higher than the rates from Felsenthal for lumber, out-bound?

Mr. Johnson: Well, I cannot say as to that. I have not referred to that contract hardly since it was made. There has been no occasion to look it up and I cannot answer it.

Examiner Marble: The eleventh paragraph in that contract reads:

"The Mill Company hereby expressly covenants and agrees that it will not voluntarily grant to any person or corporation other than the Railway Companies, parties hereto, or to a person acting in the interests of either of the Railway Companies parties hereto, a right of way for a railroad track over any lands owned or controlled by it hereinbefore mentioned, without the permission of the parties of the first part hereto."

Mr. Johnson: Well, that simply meant that in any case we could not stop them if they wanted to come. A railroad company could come in and condemn a right of way and get it.

5220 Examiner Marble: But you agree to voluntarily give them a right of way.

Mr. Johnson: I think that is right.

Examiner Marble: The twelfth provision is an agreement on the part of the Mill Company that it will not assign or transfer any of the rights and privileges secured to it under the provisions of this agreement without the consent in writing of the parties of the first part hereto, and each of them, having been first had and obtained.

Now, on the same day there was a contract between the St. Louis, Iron Mountain & Southern Railway Company and the Farmerville and Southern Railroad Company, parties of the first part, and the Union Saw Mill Company, granting the Union Saw Mill Company trackage rights over the Farmerville & Southern on the same terms, the contract being identical in form.

Mr. Johnson: Yes, sir.

Examiner Marble: Also a third contract between the St. Louis, Iron Mountain & Southern Railway Company and the Eldorado & Bastrop Railway Company, parties of the first part, and the Union Saw Mill Company, granting its right of way from——

5221 Mr. Johnson: El Dorado to White.

Examiner Marble: No, not from El Dorado, I believe at that time. There was a subsequent contract that extended your rights up to El Dorado, was there not?

Mr. Johnson: No sir, made that way originally.

Examiner Marble: You made a subsequent contract which gave you trackage away up to Northlet, I believe?

Mr. Johnson: Yes, sir, but the original contract was made from El Dorado to White.

Examiner Marble: You are right about that, and subsequently you went beyond El Dorado to Northlet.

Mr. Johnson: Yes sir.

Examiner Marble: On the same terms?

Mr. Johnson: Yes sir.

Examiner Marble: Is ii supposed to do business in the state of Louisiana.

Mr. Johnson: Arkansas.

Examiner Marble: Louisiana and Pine Bluff.

Mr. Johnson: Chartered under the laws of Arkansas.

Examiner Marble: It is supposed to do business in the state of Louisiana?

Mr. Johnson: I don't know whether it is or not. Our legal
5222 department is here, Mr. Gaughan, he can tell you.

Mr. Gaughan: I am not an attorney in Louisiana.

Mr. Johnson: We have never got any business in Louisiana, though, to amount to anything. We are operating in Arkansas you can see from this track.

Examiner Marble: You report to the Interstate Commerce Commission 45 miles of trackage extending from Felsenthal, Arkansas, to Monroe, Louisiana; also 32 miles of track from Litroe, Louisiana, to Farmerville, Louisiana.

Mr. Johnson: Yes, they are trackage contracts, we have trackage arrangements over that line. We only operate logging trains on it.

Mr. Walter: You are not going to try us for operating in violation of the law of Louisiana, are you?

Examiner Marble: No, but I would like to know how much of a railroad there is under these trackage rights and see what it amounts to.

Mr. Johnson: Those tracks there.

Examiner Marble: You have not considered these trackage rights of enough consequence, or at least you have not seen fit, whatever the reason may be, to domicile yourself in the state of Louisiana because of those trackage contracts.

5223 Mr. Johnson: To tell you the truth, I had never thought about it. We had not done much down there. We have been getting timber in Arkansas. If it is necessary to do that, we will have to do it.

Examiner Burchmore: Mr. Johnson, this map of yours shows that Louisiana and Pine Bluff as having a line of railroad from Farmerville to Logging Camp Number 3, in Louisiana.

Mr. Johnson: That track has just been built in there in the last six months, we have not moved in as yet, it is just constructed. We will move a camp in there probably in ten days from now.

Mr. Burchmore: You have another line running down for a short distance into Louisiana, branching off from your line west of Huttig.

Mr. Johnson: Well, that is a log line, the Logging Company operate on that.

Mr. Burchmore: That is not a part of the Louisiana and Pine Bluff?

Mr. Johnson: They own the steel but they do not operate it, that is operated by the Logging Company.

Examiner Marble: The Logging Company operates what?

Mr. Johnson: They operate these lateral spurs.

5224 Examiner Marble: The lateral spurs.

Mr. Johnson: Yes, sir.

Examiner Marble: Do they operate these trackage contracts over the Iron Mountain tracks?

Mr. Johnson: No, sir.

Examiner Marble: Who runs those trains containing your logs?

Mr. Johnson: Louisiana and Pine Bluff Railway. When it comes to the details of the operation, our Mr. Scott, who has personal charge of that road is here, and he can go into all those details with you better than I can. I live here in St. Louis, and Mr. Scott knows more about the details of that, how those things are handled, than I do.

Examiner Marble: What is the distance from Huttig to Dollar Junction?

Mr. Johnson: A trifle less than three miles, my collection is.

Examiner Marble: Are you familiar with the accounting of the Louisiana and Pine Bluff?

Mr. Johnson: No, sir.

Examiner Marble: Are you familiar with the charge made for depreciation in the last three years?

5225 Mr. Johnson: No sir.

Examiner Marble: Depreciation?

Mr. Johnson: No sir.

Examiner Marble: Who determines that?

Mr. Johnson: Mr. Scott.

Examiner Marble: Who makes up these annual reports?

Mr. Johnson: The auditor, I think, of our line. He is under Mr. Scott at Huttig.

Examiner Marble: You are not familiar with that?

Mr. Johnson: No sir, I am not familiar with the details of it.

Examiner Marble: Are you interested in the Frost-Trigg Lumber Company?

Mr. Johnson: They are out of business.

Examiner Marble: Do you control the Red River Lumber Company?

Mr. Johnson: No, never was interested in it.

Examiner Marble: Is Mr. Frost interested in it?

Mr. Johnson: No sir, Mr. E. W. Frost was President of the Frost-Trigg Lumber Company, and he was also President of the Red River Lumber Company. Both those companies are out of business. I was interested in the Frost-Trigg Lumber Company, but was

5226 never interested in the Red River Lumber Company.

Examiner Marble: Where does the Wisconsin Lumber Company gets its lumber?

Mr. Johnson: From the Union Saw Mill Company.

Examiner Marble: Buys it from the Union Saw Mill Company?

Mr. Johnson: Yes sir.

Examiner Marble: Is that logged then, by the Huttig Lumber Company?

Mr. Johnson: Yes sir.

Examiner Marble: You sell it delivered to its mills?

Mr. Johnson: Yes sir.

Examiner Marble: They handle hard wood?

Mr. Johnson: Yes sir.

Examiner Marble: While the Union is sawing pine?

Mr. Johnson: Nothing but pine.

Examiner Marble: How close do the Iron Mountain tracks go to your platform at Huttig, that old Little Rock and Huttig track?

Mr. Johnson: They go right through the town of Huttig.

Examiner Marble: How close to your plant?

Mr. Johnson: They go right close to it, I don't know just
5227 how close they go on the tracks into our plant. They go through the town of Huttig, and we built the road through there ourselves.

Examiner Marble: The sale of the Little Rock & Monroe by the Union Saw Mill Company expressly reserved those tracks into your plant as the property of the Saw Mill Company?

Mr. Johnson: I don't remember whether we reserved them or whether we bought them back from them. We own the tracks, though. I think we bought them back from them.

Examiner Marble: At any rate, they are your property?

Mr. Johnson: They are our property, and have been ever since we closed the deal with them.

Examiner Marble: They did not ever practically go with the Little Rock & Monroe for operation, you withheld them from the start, either reserving them or buying them back?

Mr. Johnson: Yes sir.

Examiner Marble: That is all.

Examiner Burchmore: As I understand you, Mr. Johnson, the line north from Huttig to Dollar Junction was constructed along about 1905 or 1906.

Mr. Johnson: Yes sir.

5228 Examiner Burchmore: And has been operated since that time by your Railroad Company?

Mr. Johnson: Yes sir.

Examiner Burchmore: Does that include all of the tracks that are shown on your map here between Huttig and Dollar Junction and White and Dollar Junction?

Mr. Johnson: Yes sir. The Louisiana and Pine Bluff own the depot at Dollar Junction, they own all the terminals there. They own all the terminals, about eight miles of track in here at Huttig, around these plants here, and I think about two and a half to three miles at Dollar Junction, possibly not that much.

Examiner Burchmore: Any around Dollar Junction?

Mr. Johnson: Yes, we own all that track in there (indicating on plat).

Examiner Marble: You have not operated that road for the last four or five years?

Mr. Johnson: We owned it ever since we built it, owned it ever since it was in there.

Examiner Burchmore: I understood you to say that you have some railroad north of Dollar Junction aside from the yards, right in Dollar Junction.

5229 Mr. Johnson: Yes sir, we cut off a right of way to build a grade in there about the time the panic come on, and we quit, got short of money and quit building.

Examiner Burchmore: Then you were grading in 1907 or 1908 north of Dollar Junction?

Mr. Johnson: Yes sir, we graded that, and my recollection is we graded it in the summer of 1907.

Examiner Burchmore: What was your purpose of extending the line north of Dollar Junction?

Mr. Johnson: That is a solid body of timber all through there, and we own the timber clear up to about that point.

Examiner Burchmore: You own a solid body of timber north of the Iron Mountain Railroad in and around Dollar Junction, up to as far as Wilmington or Pigeon Hill?

Mr. Johnson: Yes, about that much.

Examiner Burchmore: And the extension which you are now making is aimed to penetrate that whole tract of timber?

Mr. Johnson: Yes sir.

Examiner Burchmore: Are you aiming to make connection with the Rock Island Railroad?

Mr. Johnson: No sir.

Examiner Burchmore: That is not your present inten-

5230 tion?

Mr. Johnson: We haven't it in mind at this particular time.

Examiner Burchmore: How far are you grading from—planning to grade in the immediate future?

Mr. Johnson: Around ten miles.

Examiner Burchmore: About ten miles north of Dollar Junction?

Mr. Johnson: Yes, sir.

Examiner Burchmore: You don't know how far the steel is laid?

Mr. Johnson: I do not.

Commissioner Harlan: Is this timber north of Dollar Junction and Wilmington that you bought at the suggestion of the Iron Mountain?

Mr. Johnson: Well, it is intermixed; a great deal of it in there, yes.

Examiner Burchmore: From whom did you purchase that timber, various mills?

Mr. Johnson: No, we bought that tract that I refer to from Starrett and Hovey of Detroit, Michigan.

Commissioner Harlan: Are they lumbering there at all?

Mr. Johnson: No sir, they were timber people. They
5231 never operated any timber in the south.

Commissioner Harlan: Was any one lumbering up there when you bought?

Mr. Johnson: Yes, there was a mill went there.

Commissioner Harlan: Just tell me where that is, or was, Mr. Johnson.

Mr. Johnson: There is a mill right in here at Urbana, and they owned the timber in here (indicating on map).

Commissioner Harlan: You did not buy that timber?

Mr. Johnson: Yes, sir, we bought their timber, too.

Examiner Burchmore: North of Urbana?

Mr. Johnson: Yes sir.

Commissioner Harlan: You bought their mill also?

Mr. Johnson: No, we just bought their timber, and they shut their mill down.

Examiner Burchmore: How did they hapen to sell out?

Mr. Johnson: Well, I could not tell you that, I don't know.

Examiner Burchmore: Went into bankruptcy?

Mr. Johnson: No, no.

Examiner Burchmore: You have a logging road—a private logging road running north in that territory at the present
5232 time?

Mr. Johnson: We had one in there. I don't know whether it is there yet or not, but we had one up there, and that road was put in through their timber. I think one reason they sold was that they only had I think about forty million feet of timber in there and they quit timbering in through there.

Commisioner Harlan: Were they getting any divisions?

Mr. Johnson: I could not tell you. I don't know, I think they were.

Examiner Burchmore: Have any trains been operated north of Dollar Junction on this extension?

Mr. Johnson: Not yet, no sir.

Examiner Burchmore: Referring to the trackage rights which the Union Saw Mill has, as I understand it, reserved over the El Dorado & Bastrop Railway from El Dorado.

Mr. Johnson: They did not reserve them, they never had them to reserve.

Examiner Burchmore: I mean acquired.

Mr. Johnson: Yes, sir.

Examiner Burchmore: They availed themselves of those trackage rights from the beginning, since they have had them?

Mr. Johnson: Oh, yes.

5233 Examiner Burchmore: Are they still operating their logging out over that road?

Mr. Johnson: We operate both ways, over that road and over Louisiana & Pine Bluff, too.

Examiner Burchmore: Is the Louisiana & Pine Bluff Railroad

operating any trains over the tracks of the El Dorado & Bastrop Between Lawson or Urbana and Dollar Junction?

Mr. Johnson: Operate logging trains if they are working up in that country. We operate trains which leave Huttig and come up to Dollar Junction and go out over that track.

Examiner Burchmore: That train is now operated by the Louisiana & Pine Bluff Railroad?

Mr. Johnson: Yes, sir.

Examiner Burchmore: Does the Union Saw Mill Company at the present time operate any such logging trains?

Mr. Johnson: No, sir.

Examiner Burchmore: How long has the Louisiana & Pine Bluff been operating those logging trains over the tracks of the El Dorado & Bastrop.

Mr. Johnson: Well: I don't know just the date I am sure. I don't know the time at all.

Examiner Burchmore: Would you say one year or three
5234 or four months?

Mr. Johnson: For some time, I don't know just how long.

Examiner Burchmore: Three or four years or three or four months?

Mr. Johnson: I think two or three years.

Examiner Burchmore: That is under an assignment or what amounts to an assignment of those trackage rights?

Mr. Johnson: Well, it provided for the incorporation of a railroad. The railroad is owned by the Union Saw Mill Company. The Louisiana & Pine Bluff was not in existence at the time these contracts were made.

Examiner Burchmore: I am asking for a fact. You regard it as an assignment to the Louisiana & Pine Bluff of those trackage rights?

Mr. Johnson: Yes sir.

Examiner Burchmore: Did the Louisiana & Pine Bluff move logging trains over private spurs and up in the woods?

Mr. Johnson: No, those trains were set down there by the Logging Company.

Examiner Burchmore: As far as these logging trains are concerned, the rails of the El Dorado & Bastrop Railroad are treated by the Louisiana & Pine Bluff as though they composed part of
5235 its main line?

Mr. Johnson: Yes sir.

Examiner Burchmore: On your map, your blue print, you show a line operated by the Louisiana & Pine Bluff Railway, extending from a short distance—from a connection with the Little Rock & Monroe Railroad a short distance south of Huttig in a westerly direction, and northerly towards its connection with the El Dorado & Bastrop, known as the E. & B.?

Mr. Johnson: Yes, sir.

Examiner Burchmore:: Is that line now operated by the Louisiana & Pine Bluff Railway?

Mr. Johnson: Yes sir.

Examiner Burchmore: How long has it been so operated, or any part of it been so operated?

Mr. Johnson: I cannot answer that question. Mr. Scott is here and he will tell you all about it, just when it was put in operation and all about it.

Examiner Burchmore: May I ask you if you know whether that line was formerly a private logging road belonging to the Huttig Logging Company?

Mr. Johnson: No, I think not; the Huttig Logging Company never had money enough to build a road like that.

5236 Examiner Burchmore: Did the Union Saw Mill Company formerly own that road?

Mr. Johnson: No, sir, the Logging Company did not build any thing but the little lines.

Mr. Burchmore: These two spurs (indicating)?

Mr. Johnson: Yes sir.

Commissioner Harlan: Who built that line?

Mr. Johnson: The Louisiana & Pine Bluff.

Commissioner Harlan: They use the trackage of that line at this time?

Mr. Johnson: Yes, there is not much out there to get out of there but timber.

Examiner Burchmore: All you operate over that line is log trains?

Mr. Johnson: That is all. We do not perform any general service over that particular part of the road. We operate betwen Huttig and Dollar Junction, a general service, but on there is practically a logging service.

Examiner Burchmore: I think I will not ask any further questions on this line until Mr. Scott takes the stand.

Mr. Johnson: Yes, he can tell you just the time it was put in operation.

5237 Examiner Burchmore: I will ask you this: Do you know whether the Louisiana & Pine Bluff Railway has ever paid any taxes to the State of Arkansas or to any other taxing body on the line between Huttig and E. & B. Junction?

Mr. Johnson: I could not tell you.

Examiner Burchmore: You don't know that they have paid any such taxes?

Mr. Johnson: No, I don't know.

Examiner Burchmore: Do you know whether you have paid any taxes on your line between Huttig and Dollar Junction?

Mr. Johnson: We have paid taxes on it. I don't know just what part of the line it was paid on, but we have paid taxes. We have a man looking after all our taxes, and I don't know anything about the details of it.

Examiner Burchmore: We have discussed trackage rights over the El Dorado & Bastrop Railway. I will ask you whether the Union Saw Mill Company availed itself of the trackage rights that it acquired over the Little Rock & Monroe Railway?

Mr. Johnson: Whether it availed itself?

Examiner Burchmore: Yes, whether it moved logging trains over that road?

5238 Mr. Johnson: It has done it, I guess, in the past, but it is some time ago. We are not getting much of the timber there. The greater part of the timber we have been getting is off this other way. This is the Louisiana line right there (indicating on map).

Examiner Burchmore: The Louisiana state line?

Mr. Johnson: Yes, sir. Now, this timber in here has not been cut, we have not been working in there.

Examiner Burchmore: Is that virgin timber along the Little Rock & Monroe?

Mr. Johnson: Yes sir.

Examiner Burchmore: Are there any logging trains now being operated over the Little Rock & Monroe Railway south of Monroe by the Union Saw Mill Company or by the Little Rock & Pine Bluff Railroad?

Mr. Johnson: Why, there has been some oak hauled in there possibly.

Examiner Burchmore: Who hauled that oak?

Mr. Johnson: The Louisiana & Pine Bluff.

Examiner Burchmore: In other words, the same change has taken place in the exercise of trackage rights over the Little Rock & Monroe as has taken place on the El Dorado & Bastrop?

5239 Mr. Johnson: Yes, sir.

Examiner Burchmore: Is the same true of the trackage rights over the Farmerville & Southern?

Mr. Johnson: Yes sir.

Examiner Burchmore: On that blue-print you have indicated a line connecting with the Farmerville & Southern just south of Farmerville and extending to and beyond number three logging camp. When was the construction begun on that line?

Mr. Johnson: I think it was begun about seven or eight months ago, or a year ago.

Examiner Burchmore: Is the line in operation?

Mr. Johnson: Yes, sir; we will move a camp in there probably in another ten days or two weeks.

Examiner Burchmore: As a railroad it is not yet being actively operated?

Mr. Johnson: No, sir.

Examiner Burchmore: Are you moving any machinery or things of that kind down into those woods over that railroad?

Mr. Johnson: We have no machinery, no sir. The only machinery we use in the woods would be log loaders, you know.

Examiner Burchmore: Where will the logs that are cut

5240 down there be milled?

Mr. Johnson: Huttig.

Examiner Burchmore: That is fine timber?

Mr. Johnson: Yes, oak.

Examiner Burchmore: And the oak timber will be milled by the Wisconsin Lumber Company?

Mr. Johnson: Yes, sir.

Examiner Burchmore: Why are you going into that timber south of Farmerville instead of into your timber along the Little Rock & Monroe?

Mr. Johnson: Well, that timber over there is not owned in fee, that is, only a small portion of it. We don't own the land, we own the timber.

Examiner Burchmore: The timber right will be expiring soon?

Mr. Johnson: Yes sir, along the Little Rock & Monroe, up north there, we own all that in fee, but that we own over in there is more or less broken. There are farmers in there——

Commissioner Harlan: How many acres have you got down there?

Mr. Johnson: I don't know the acreage.

Examiner Burchmore: How many feet?

Mr. Johnson: There is about nine hundred million feet.

5241 Examiner Burchmore: How long will it take you to cut that?

Mr. Johnson: It will take about fifteen years, I guess, or sixteen.

Examiner Burchmore: When that is all cut, what will become of that property down south of Farmerville? Have you got any plans, or have you ever thought about it?

Mr. Johnson: That is a matter we can not figure that far ahead.

Examiner Burchmore: What did that road cost per mile to build down there?

Mr. Johnson: That is a cheap road. Part of it I guess probably cost five or six or seven thousand dollars a mile.

Examiner Burchmore: Do you consider five or six thousand dollars a mile cheap for a logging road?

Mr. Johnson: Yes.

Examiner Burchmore: I might say that we have testimony in this record within the last three or four days of more than one company that built its line for $2,000 or $2,500 a mile.

Mr. Johnson: Well, it all depends on the country largely, and the kind of road they build, or the engines they own, and on the capacity, how many loads they want and all about it.

Examiner Burchmore: What is the weight of your rails

5242 down there?

Mr. Johnson: Fifty-six pound rails.

Examiner Burchmore: It is a difficult railroad country?

Mr. Johnson: Pretty tough country, yes.

Examiner Burchmore: Take this line—take that part of this line that ran through the woods west of Huttig, and that branch that crosses the state line into Louisiana, that I take it from your testimony serves probably the timber holdings of your company?

Mr. Johnson: Well, there is timber all through there that we do not own, you see? We do not own it all by any means. Other mills hold the land that the tracks go over.

Examiner Burchmore: When that timber is all cut out, will your railroad continue to get business at that point?

Mr. Johnson: We cannot figure on that.

Examiner Burchmore: Is there a possibility that the rails will be taken up and it will go out of business?

Mr. Johnson: We have never taken up any, unless a little spur to haul logs on.

Examiner Burchmore: I thought Mr. Frost made reference to the fact that the Red River Valley Railroad had taken up its tracks and gone out of business.

5243 Mr. Johnson: I had nothing to do with that, never was interested in it.

Examiner Burchmore: Is anyone else doing any lumbering in the territory tributary to your lines west and south of Huttig?

Mr. Johnson: I don't think so. It is not customary in any country for more than one company to log the timber, as a matter of economy. One logging company can get the timber out much cheaper than three or four different parties.

Examiner Burchmore: Are any of the other owners down there having their land logged?

Mr. Johnson: There is sometimes an owner in there that we buy their timber from when we cut it, and they sometimes log it themselves. They have cut their timber and hauled it to one of our spurs for so much a thousand, and we bought the timber from the people in that way; that is timber that we do not own.

Examiner Burchmore: What kind of a——

Mr. Johnson: We cannot buy the land, they would not sell you the land, but they will sell you the timber.

Examiner Burchmore: What kind of a price do you pay for the timber that you acquire in that way?

5244 Mr. Johnson: Well, the Saw Mill Company is just as anxious to buy this timber, and probably more so, than the farmer is to sell it, and as a rule he keeps himself pretty well informed on the price of timber, and he knows about what it costs him to haul logs, and you have got to pay him about as much for his timber as—that is, the large logs from the farmer cost you about as much as your own, about the same.

Examiner Burchmore: He could not haul his logs, though, over to Farmerville or to some other point, a distance of three or four miles, say, and sell them any time?

Mr. Johnson: He could not haul them over there, and if it was not for us, if he could not get them out of there, he would pile up his logs and burn them, and the railroad would never get the haul.

Examiner Burchmore: When they come selling logs, you are the only customer the farmer can have?

Mr. Johnson: Not necessarily.

Examiner Burchmore: Who else can buy his logs?

Mr. Johnson: Well, if he has enough timber, he could put a little mill in there and saw them up himself.

Examiner Burchmore: How would he get the lumber out?

Mr. Johnson: We would haul it out for him.

5245 Examiner Burchmore: Would you haul lumber out for anybody?

Mr. Johnson: We would haul it if there was any there to haul.

Examiner Burchmore: But it is not in there generally?

Mr. Johnson: It is not economy to haul the lumber out, it is economy to haul the logs out.

Examiner Burchmore: I have before me a copy of what purports to be a copy of a letter you wrote to the Commission on July 12, 1910. There is just one statement in it——

Mr. Johnson: July what?

Examiner Burchmore: January 12, 1910.

Mr. Johnson: Oh, yes. What statement?

Examiner Burchmore (reading): "Under the laws of Arkansas we could not take up these tracks and go out of business even if we wanted to do so," you state in there. I simply want to ask you whether that is your understanding, that the Arkansas laws prevent a carrier from taking up its rails and going out of business when its traffic has disappeared?

Mr. Johnson: I think so. They can't prevent you from taking up any of that track, they could do it, but they do not always do it. They could do it.

5246 Examiner Burchmore: We have had one or two cases in connection with a proceeding where a former road has found that its traffic had expired, and they had taken up their road and gone out of business.

Examiner Marble: Do you have passes over trunk lines?

Mr. Johnson: I have a few.

Examiner Marble: Do you have passes on lines east of Chicago?

Mr. Johnson: I think not. I know I have not any this year.

Examiner Marble: Not yet.

Mr. Johnson: I expect to have some, though.

Examiner Marble: How many passes did you have last year?

Mr. Johnson: Oh, I could not tell you exactly, but I had passes over the Iron Mountain and the Burlington, the Chicago & Alton, the Wabash. I don't ask many people for passes. I do not ask for a pass unless it is over a line I want to use them on.

Examiner Marble: You don't gather them as souvenirs at all?

Mr. Johnson: Don't gather them as souvenirs, no sir, just only where I want to use the line.

Examiner Marble: You don't get what you want, what you need for your transportation?

5247 Mr. Johnson: I don't say that I get what I want, I get some passes, though.

Commissioner Harlan: Enough to get around with fairly well?

Mr. Johnson: Yes, sir.

Examiner Marble: When you travel on those lines for any purpose you use those passes, of course?

Mr. Johnson: Yes, sir.

Commissioner Harlan: Mr. Scott knows all about the allowances and the rates, application of rates, things of that kind?

Mr. Johnson: Yes, sir, he knows all about it.

Commissioner Harlan: Any further questions with this witness?

Mr. Walter: You have in your hand there a copy of your letter of July 12th?

Mr. Johnson: To Chairman Knapp?

Mr. Walter: Yes.

Mr. Johnson: Yes, sir.

Mr. Walter: Those statements in that letter generally represent the situation about as you judged was the facts?

Mr. Johnson: Yes, sir.

Mr. Walter: We ask to have that letter, a copy of it, put in as an exhibit.

Commissioner Harlan: The Commission has the letter. It
5248 may be referred to by counsel.

Mr. Walter: And put in this record?

Commissioner Harlan: It is not necessary to put it in the record. It may be referred to by counsel as if it were in the record. It is in the records of the Commission.

Mr. Walter: Mr. Johnson, will you explain in detail the value of those spur lines to the people who are in there?

Mr. Johnson: Well, I would state this, that in my opinion there has not enough importance been attached to the spur lines, strictly logging roads, for the reason that they furnish facilities for the farmers who are living in isolated parts of the country to sell their timber, and if it was not for the system of allowing those lines a division of the rates the roads would not be built. There are isolated parts of timber all over the south that would never be cut into lumber, the farmers would clear the land, pile the logs and burn them, and if that was done, the standard lines would lose the revenue from a large amount of tonnage, and the people would be deprived of that much timber, which they seem to be anxious to conserve all the timber there is in the country.

Commissioner Harlan: Let me interrupt you a moment. What line are you talking about?

5249 Mr. Johnson: I am talking about these strictly log spurs we have out here.

Commissioner Harlan: I thought so, but I understood you to say a moment ago that they got no division?

Mr. Johnson: I said if a road like this was deprived of its divisions, that these kind of tracks could not be built, the lumber company would not build a track out there For instance, there may be a couple of miles that there is no timber in at all, unless the road built those tracks they would not build them, and a man that has eighty acres of timber up in here would simply cut out the timber and burn it up.

Commissioner Harlan: Now, your statement is, as I understand it, unless the Louisiana & Pine Bluff Railroad Company got these divisions, the Union Saw Mill Company would not build these logging lines that join the Louisiana & Pine Bluff?

Mr. Johnson: They would not build all of them, they would build some, but there is a great many of those tracks that would not be built.

Commissioner Harlan: Just how are those two propositions re-

lated? Here is a railway company that gets divisions. A saw mill company builds a logging line connected with the railroad
5250 company. Now, on what theory do you say that the lumber company would not build those log lines if the railroad company did not get divisions?

Mr. Johnson: The Louisiana & Pine Bluff Railroad is providing you facilities for opening various tracts of timber for the Union Saw Mill Company, and what I mean to say is that if they were deprived of their earnings, there is a lot of that track that would never be built, back in those isolated parts of the country. For instance, there may be a tract of timber here three miles in between here, there is very little timber to be had, and you could not afford to build three to five miles of track to get that quantity of timber unless you got some divisions out of it.

Commissioner Harlan: When we analyze your statement, doesn't it all come back to this proposition, that unless the regular lines help to run and operate an instrument that the lumber company uses to haul its products, that these operations out here would not reach that point, isn't that what it means?

Mr. Johnson: I mean to say this, that there has to be transportation facilities provided by somebody in those isolated parts of the country for timber, it is a commodity we cannot get
5251 out any other way, and unless they receive some earnings on the tonnage that they create, they never will build the lines.

Commissioner Harlan: To whom do you refer when you say "they"?

Mr. Johnson: The lumber companies will never build them, they will never buy those isolated tracts. In the first place they will buy where they can get it in a solid body, they may buy it, but where it is through a scattered territory, located at some out of the way point, they will not buy it.

Commissioner Harlan: It just comes to this, that unless the Iron Mountain here helps the Lumber Company to operate all of these tracks, whether main line tracks or logging tracks, the logging company would get out———

Mr. Johnson: Helps the railroad company, not the lumber company, the railway company, the Iron Mountain helps the short line railway company.

Mr. Garwood: Mr. Johnson, as I understand, Mr. Harlan want-to get your position——

Commissioner Harlan: I think I understand, if you want to further understand the witness, all right.

Mr. Garwood: What does the railroad company do in the
5252 matter of aiding toward the construction of those short lines?

Mr. Johnson: The railway company builds the main line track and furnishes the steel for all these lateral lines—furnishes the steel, which is the biggest item of expense.

Mr. Walter: Now, Mr. Johnson, when you went down there what was the condition of all of this country?

Examiner Burchmore: I want to ask one or two more questions on this same matter.

Mr. Walter: Sure.

Examiner Burchmore: Did the railroad company furnish anything besides the steel for these branch lines?

Mr. Johnson: Furnishes the equipment, furnishes the engines and cars.

Examiner Burchmore: And do they furnish the laborers to lay those lines?

Mr. Johnson: No sir, furnish the labor to lay the main lines but not the lateral lines. Now, I understand you are talking about the little logging lines.

Examiner Burchmore: Logging lines.

Mr. Johnson: They furnish the steel and they furnish the equipment. The logging company take out the steel and lay it, put the ties under it, and when the timber is cut off on that par-
5253 ticular tributary to that track, they take it up and put it somewhere else.

Examiner Burchmore: You mean the Lumber Company?

Mr. Johnson: The Logging Company, the same thing, that is, the logging company and the lumber company is the same thing.

Examiner Burchmore: What if any of these branch roads indicated on that blue print are extended into timber in which the logging company or the lumber company is not interested?

Mr. Johnson: I think the lumber company is interested in some timber possibly in most of that country, but they do not own it all, and the timber at the back end of one of those tracks is the timber that I refer to, that they go a great deal further than they would go if they did not receive these divisions, but being able to get compensation for their tonnage they extend those tracks further than they would otherwise do.

Commissioner Harlan: We will pursue that just a moment. You say that the lumber company and the logging company are one and the same institution, in substance?

Mr. Johnson: Well the lumber company owns the logging company. They run separately, but they are owned by the same people.

5254 Commissioner Harlan: The lumber company pays the labor for constructing these logging roads?

Mr. Johnson: Yes sir.

Commissioner Harlan: The lumber company does not participate in these divisions, does it?

Mr. Johnson: No sir.

Commissioner Harlan: Except that it owns the railroad company.

Mr. Johnson: Never participates that way, because they never pay a dividend.

Commissioner Harlan: So that when you said that these logging roads would never be built except for these divisions, you said that with full knowledge of the fact that the lumber company as such, and as the owner of those logging roads, does not get any part of the division, that is so, is it not?

Mr. Johnson: Yes sir.

Examiner Marble: I have a question you might want to cross examine on.

Mr. Walter: I don't think I want to cross examine. I might want to rebut a little.

Examiner Marble: Have you had more than one charter in
5255 the state of Arkansas for the Louisiana and Pine Bluff, or an amendment to your charter?

Mr. Johnson: I think not.

Examiner Marble: I find that your report to the Commission for the year ending 1907 states that your railroad is chartered for twenty miles. It is my understanding of your charter that it is for twenty miles north of Huttig. Do you know whether that is right or not?

Mr. Johnson: I do not know, no sir, I do not know how that is.

Examiner Marble: You do not know whether you have a charter right to build this line or road which shows here as a red line on that blue print?

Mr. Johnson: I don't know how the charter reads.

Mr. Walter: Mr. Johnson, just state what condition you found that country in when you went down there before this road was built from Monroe to Farmerville?

Mr. Johnson: Well, there was not any of those roads built when we commenced to lay that down to Monroe.

Mr. Walter: What was it known as?

Mr. Johnson: It was known as the "dark corner".

Mr. Walter: You have gone in there and built a line of
5256 road to Monroe, is that right?

Mr. Johnson: Yes, sir.

Mr. Walter: The Iron Mountain connected up with that, bought it, and it forms part of its main line?

Mr. Johnson: Yes sir.

Mr. Walter: You built a branch to Farmerville?

Mr. Johnson: Yes sir.

Mr. Walter: Where it afforded railroad transportation to that part of Arkansas?

Mr. Johnson: Yes sir.

Mr. Walter: Is that right?

Mr. Johnson: Yes sir, and Louisiana.

Mr. Walter: Yes, part of Louisiana.

Mr. Johnson: Yes, sir.

Examiner Burchmore: What part of Louisiana?

Mr. Walter: All through that territory the farmers are located?

Mr. Johnson: Yes sir.

Mr. Walter: It aids more or less these farms in developing agriculturally?

Mr. Johnson: Yes sir.

Mr. Walter: This timber train stops on the farms?

5257 Mr. Johnson: Yes, sir.

Mr. Walter: What about that land after the timber is off?

Mr. Johnson: It is good agricultural land, fairly good.

Mr. Walter: I will ask you if at Farmerville there is not a very extensive marble industry?

Mr. Johnson: Marble?

Mr. Marble: Marble?

Mr. Johnson: At Farmerville, Louisiana?

Mr. Walter: Yes, sir.

Mr. Johnson: I think not.

Mr. Walter: Around there somewhere?

Mr. Johnson: I don't know of any.

Mr. Walter: That was my information. Mr. Johnson, have you ever been over the Trinity branch of the M. K. & T. in Texas?

Mr. Johnson: A good many years ago.

Mr. Walter: I will ask you if you know how the lands, as lands along that line compare in point of quality, of fertility with the lands up in Union County.

Mr. Johnson: Along the Trinity division, I don't think they are as good.

Mr. Walter: Isn't it a fact——

5258 Mr. Johnson: I have not been in that country for a good many years.

Mr. Walter: —that they are very poor, and the argument advanced by the examiner that after the timber is cut out there is nothing there, has not held good in that section, for with much poorer land there they have on that line several flourishing towns along that floating rib, as it has been called, of the M. K. & T., which was originally built for logging and lumber purposes?

Mr. Johnson: Yes, sir.

Commissioner Harlan: That seems to be all with this gentleman.

Mr. Cowan: One moment. Mr. Johnson, speaking of the division received by somebody for the business handled over these logging spurs, who gets that division? You said the lumber company did not get it, as I understood. Who gets it?

Mr. Johnson: The railway company.

Mr. Cowan: What railway company?

Mr. Johnson: Are you talking about any particular case?

Mr. Cowan: Logging spurs, service over logging spurs?

Mr. Johnson: Are you talking about the Louisiana and Pine Bluff?

5259 Mr. Cowan: Yes?

Mr. Johnson: The Louisiana & Pine Bluff Railway Company gets the division.

Mr. Cowan: For the service performed on the logging spurs by whom?

Mr. Johnson: They get that division for hauling the logs, furnishing the steel for extensions, for hauling the empty cars into Huttig and for hauling the lumber out.

Mr. Cowan: Well, who performs the service, what corporation performs the service?

Mr. Johnson: The Louisiana & Pine Bluff.

Mr. Walter: You did not understand the question, I think, Mr. Johnson.

Mr. Cowan: I understood the logging company performed the service.

Mr. Johnson: I did not understand your question?

Mr. Cowan: How is that?

Mr. Johnson: I did not understand your question?

Mr. Cowan: I misunderstood you if I now understand you correctly. I thought you had said a while ago that the logging company performed the service of the transportation on the logging spurs. Am I correct, is that what you said?

5260 Mr. Johnson: Yes sir.

Mr. Cowan: If the logging company performs the service it is the same as the lumber company, and if divisions are paid for that service, I want to know how you make it out that the lumber company don't get the divisions for the service which the logging company performs on their spurs for that part of the service?

Mr. Johnson: All the divisions we have that are received at that point go to the railroad company.

Mr. Cowan: What is the part the railroad company's service on the logging spurs, the track, performs for the lumber company?

Mr. Johnson: They only operate only for a few miles up to the main line track, where the railroad takes hold of it.

Mr. Cowan: Whatever the amount of it may be, insofar as there is compensation paid for it that——

Mr. Johnson: There is none for that.

Mr. Cowan: Does not get anything for service on logging spurs, is that it?

Mr. Johnson: No sir, they do not get anything for that. They get compensation——

Mr. Cowan: When you said that they extended them out
5261 further than they would, in order to get traffic, they are doing that as an act of benevolence for the benefit of the railroad company?

Mr. Johnson: You can figure that any way you like.

Mr. Cowan: I don't see how it can be figured otherwise, it don't get anything for it.

Mr. Gaughan: I would suggest that the interrogatories are argumentative.

Mr. Cowan: Mr. Johnson, how many lumber companies, or rather, saw-mill companies are owned by the same interests as the Frost-Johnson Lumber Company and the Union Saw Mill Company? How many different saw mill plants in different parts of the country?

Mr. Johnson: They own properties at six points, and they own the stock——

Mr. Cowan: Did you hear Mr. Frost's testimony this morning?

Mr. Johnson: Yes sir.

Mr. Cowan: Do you wish to correct him in any detail?

Mr. Johnson: No sir.

Mr. Cowan: How is the output of these various plants marketed, does each one market its own, or do you have common
5262 agents or agencies through which you market the entire output of all the mills?

Mr. Johnson: The Frost-Johnson Lumber Company has its own wholesale lumber department of its business, and they market their own lumber.

Commissioner Harlan: From all these mills?

Mr. Johnson: Yes sir.

Mr. Cowan: Each plant markets its own output?

Mr. Johnson: No sir, all the lumber that we produce is marketed through our own wholsesale department, known as the Frost-Johnson Lumber Company.

Mr. Cowan: No matter whether you get the product of the Union Saw Mill Company or not?

Mr. Johnson: No sir, it does not make any difference where it is produced, it is all sold through the same channel.

Mr. Cowan: Where is that agency, where is the office and place of business for that sales department?

Mr. Johnson: Well now, we have three places.

Mr. Cowan: Where are they?

Mr. Johnson: Shreveport, St. Louis and Chicago.

Mr. Cowan: Do you handle also the product of other mills
5263 than those which you have named, Mr. Johnson?

Mr. Johnson: No, we do not. We just handle our own lumber.

Mr. Cowan: And as to all these mills, are there divisions of rates there given to railroads which are connected with the same interests?

Mr. Johnson: No, sir, there is as many points where we get no divisions as there is where we get divisions.

Mr. Cowan: Is it an advantage to the investing interest—I am not speaking of corporations—in these properties, to have the divisions operate from places where they do have them, compared to the operation from places where they do not have divisions?

Mr. Johnson: Well, the mill in our group that made the most money last year per thousand has no divisions, and that mill made more money than any one we have got.

Mr. Cowan: You mean one that had no division?

Mr. Johnson: Yes sir.

Mr. Cowan: Where is that located?

Mr. Johnson: Campti, Louisiana.

Mr. Cowan: And they operated their mill by the railroad bringing logs in?

Mr. Johnson: Yes sir.

5264 Mr. Cowan: Is the service substantially of the character given to the mills, as in the other cases.

Mr. Johnson: Yes, sir.

Mr. Cowan: How did you come to make more money there if you did not get any divisions?

Mr. Johnson: I cannot explain. All I know is that they did it, and our statements will show that they did.

Commissioner Harlan: Do you find divisions rather expensive to maintain at the other mills?

Mr. Johnson: I don't know as they are expensive, sir, but the plant that made the most money for the Frost-Johnson Lumber

Company per unit is located at Campti, where they get no division at all at that point.

Examiner Burchmore: Is that a large or a small capacity?

Mr. Johnson: It is medium size. It might be in the management or it might be in the quality of the timber, it might be in the lay of the land, I don't know where it is, but it is there.

Mr. Cowan: It was not on account of not getting divisions?

Mr. Johnson: How is that?

Mr. Cowan: It did not make more money because it did not get divisions?

5265 Mr. Johnson: The divisions do not enter into it.

Mr. Cowan: To what market mainly do you ship your product, that is, what part of the country?

Mr. Johnson: Oh, that lumber goes all over: Texas, Colorado, Oklahoma, Kansas, Nebraska, Missouri. A large amount of it goes into Iowa and Illinois and Indiana, some goes down in New England, it goes everywhere.

Mr. Cowan: You have an idea of the locality to which most of it goes?

Commissioner Harlan: Judge Cowan, I suggest that these questions are rather general and apply to all these lines. There is a table in which we have the details of all the different mills and railroad companies.

Mr. Cowan: All right, I am perfectly satisfied.

Mr. Garwood: Let me ask you just one question. Did your sales department——

Commissioner Harlan: Judge Garwood, I think we had better defer that until we take up those general questions afterwards.

Mr. Walter: Mr. Johnson, are your holdings generally in a close compact body?

Mr. Johnson: Yes sir.

5266 Mr. Walter: That is all.

Mr. Coleman: I would like to ask, do you make a charge for the car which is delivered at the mill of the Johnson Lumber Company for hauling it?

Mr. Johnson: Well, now, I am not in charge of the details of this road, and I will have to ask you to excuse me from answering this kind of question.

Mr. Coleman: There is just one more. I don't believe it appears in evidence what the Iron Mountain paid you for that railroad.

Mr. Johnson: In cash?

Mr. Coleman: Whatever the arrangement was?

Mr. Johnson: It is covered by contracts, covered in the bill of sale, which is a matter of record.

Commissioner Harlan: $17,000 a mile, wasn't that it?

Mr. Johnson: I think so.

Commissioner Harlan: And some other consideration.

Mr. Johnson: About $580,000 in cash, I think, something like that.

Commissioner Harlan: I think that is all.

5267 F. W. SCOTT was called as a witness herein, and having been duly sworn, testified as follows:

Direct examination:

Commissioner Harlan: Give your full name to the reporter?
Mr. Scott: F. W. Scott.
Commissioner Harlan: Where do you reside?
Mr. Scott: Huttig, Arkansas.
Commissioner Harlan: What is your business?
Mr. Scott: Connected with the Louisiana & Pine Bluff Railway and the Union Saw Mill Company, secretary and treasurer of both companies.
Commissioner Harlan: Secretary and treasurer of both companies?
Mr. Scott: Yes sir.
Commissioner Harlan: How long have you been connected with each company?
Mr. Scott: Since their organization, or since they began construction.
Commissioner Harlan: As secretary of the railroad company, are you familiar with the allowances in the division of rates on logs and manufactured lumber?
Mr. Scott: Yes sir.
5268 Commissioner Harlan: Will you tell us, Mr. Scott, what allowances you are now receiving from any regular railroad company?
Mr. Scott: On lumber traffic we receive five cents on pine lumber and three cents on hard wood.
Commissioner Harlan: Is that the maximum allowance?
Mr. Scott: We get that on everything.
Commissioner Harlan: You get that on everything?
Mr. Scott: Yes sir.
Commissioner Harlan: Coming now to the allowances on hard wood, what service does the Louisiana & Pine Bluff perform for that allowance of three cents?
Mr. Scott: Well, the business is handled for the hard wood company there in the same manner it is for the pine, for the pine saw mill.
Commissioner Harlan: Where is the hard wood company?
Mr. Scott: It is located at Huttig also.
Commissioner Harlan: That is the Wisconsin Company?
Mr. Scott: Yes sir. The service is bringing the logs in from the lateral lines, where the trains are assembled by the logging line company.
Commissioner Harlan: Give us a typical point?
5269 Mr. Scott: I will say from—the logging company assembles a train at Pigeon Junction, for instance, right here, and our line goes and brings in the load after the train is assembled there, takes it to the mill and takes the empties back to that point.
Commissioner Harlan: Well now, you refer to the Louisiana & Pine Bluff line that runs west from Huttig——

Mr. Scott: To Pigeon Junction.

Commissioner Harlan: What company assembles the logging trains at Pigeon Junction?

Mr. Scott: The Huttig Logging Company operates those lateral spurs.

Commissioner Harlan: And that belongs to the Union Saw Mill Company?

Mr. Scott: Yes sir.

Commissioner Harlan: What hard wood do they bring in from the forests of the Saw Mill Company, the Frost-Johnson Lumber Company?

Mr. Scott: They bring in that hard wood in there.

Commissioner Harlan: Is there any other hard wood out here except the Frost-Johnson hard wood?

Mr. Scott: Yes sir, there is; the majority of it is owned
5270 by other people.

Commissioner Harlan: We will take a train of logs, hard wood logs, owned by other people, that are brought in by the Huttig Logging Company to Pigeon Hill, what sort of a movement is that, is it a movement on a published rate?

Mr. Scott: A milling in transit rate, where our tariffs provide that the out-bound rate on lumber covers the hauling of the logs from the point where they are delivered to the Louisiana & Pine Bluff Railway.

Commissioner Harlan: That was not quite my question. What is the movement up to Pigeon Junction, is that on any published rate?

Mr. Scott: No, those lines are operated by the logging railroad which has nothing further to do with it further than to deliver the stuff to the railroad company.

Commissioner Harlan: That logging company is not incorporated as a railroad company, is it?

Mr. Scott: No sir.

Commissioner Harlan: So it does not have to take these logs for these outside people unless it wishes to?

Mr. Scott: Well, they have always taken them. We never have refused to take them.

5271 Commissioner Harlan: But as a matter of law, so far as——

Mr. Walter: He is no lawyer.

Commissioner Harlan: No, but there are some people that are not lawyers that know some things.

Mr. Walter: You asked him as a matter of law.

Mr. Scott: As a matter of fact, we encourage anybody at all to log timber in that country, we are anxious for the tonnage.

Commissioner Harlan: We will assume as a matter of law that the Huttig Lumber Company does not have to take those logs in to Pigeon Junction unless it chooses to do so.

Mr. Scott: Well, it is under contract to take them out where they can be acquired.

Commissioner Harlan: Tell us about that contract, with whom it is made?

Mr. Scott: The Union Saw Mill Company is under contract with the Wisconsin Lumber Company to deliver to the Wisconsin mill, or to secure to that mill all of the tonnage that it owns or controls, and the saw mill controls the logging company, and naturally would compel it to bring this hard wood out.

Commissioner Harlan: I don't quite understand that. You say that this saw mill company has a contract with the Wis-
5272 consin Hard Wood Company?

Mr. Scott: Yes sir.

Commissioner Harlan: By which the Union Saw Mill Company undertakes to deliver that hard wood to the mill, is that it?

Mr. Scott: Well, the logs are sold delivered, yes sir, at a point in the Union Saw Mill Company, and then the Wisconsin Lumber Company has a right also to go out on the line anywhere and buy independently, and that is brought in by our railroad.

Commissioner Harlan: Mr. Scott, I may be a bit slow about this, but I want you to explain this as clearly as you know how, as to what is covered by that contract. What is the purpose of that contract, what are its provisions? We won't stop to read it, but I want you to tell me. Here is a saw mill that wants to get hard wood out here, and what does the Union Saw Mill Company undertake to do with respect to delivering that at the Wisconsin mill?

Mr. Scott: It undertakes to deliver it to the Louisiana & Pine Bluff Railway at points where these logging trains are assembled, and has an understanding with the railway that it is to haul it into that mill under the same conditions that the Louisiana &
5273 Pine Bluff Railway hauls logs to the Union Saw Mill Company's mill. The Louisiana & Pine Bluff Railway, while it does not own those lateral spurs built by the lumber company, yet it furnishes the steel and furnishes the cars on which the product out there is loaded, and in that way they can compel the logging company by the ownership of the rails and the equipment, their influence is sufficiently strong or would be if the case came up, to compel the logging company to bring that timber out to anybody that wanted to buy it. They control it in that way.

Examiner Burchmore: Is there any contract between the Louisiana and Pine Bluff Railway Company and the Union Saw Mill Company with respect to these steel rails or with respect to these private logging roads?

Mr. Scott: No written contract, it is verbal.

Examiner Burchmore: Is there any rental paid for the use of the steel?

Mr. Scott: No, sir.

Commissioner Harlan: Have you that contract between the Wisconsin Lumber Company and the Union Saw Mill Company?

Mr. Scott: No, I have not.

Commissioner Harlan: Would you be kind enough to furnish us with it hereafter, a copy of it?

5274 Mr. Scott: Yes sir.

Examiner Burchmore: Does the Wisconsin Lumber Company pay the Union Saw Mill Company for the service of hauling the logs up to the Junction with the Little Rock & Pine Bluff?

Mr. Scott: The logs are all bought at a stipulated price.

Examiner Burchmore: And that price is F. O. B. Huttig, or what basis?

Mr. Scott: The price is based on the logs delivered at Huttig. The Louisiana & Pine Bluff deliver them under the same arrangement they do those logs for the Union Saw Mill Company. The basis really is the furnishing the timber in the logs, cutting them, hauling them to the railroad where they are loaded on cars and delivered to the main line of the Louisiana & Pine Bluff, and then the Louisiana & Pine Bluff take the service from that point to the mill.

Examiner Burchmore: What does the Louisiana & Pine Bluff receive for that service in connection with the hard wood logs?

Mr. Scott: Only its division of the out-bound through rate, the out-bound rate.

Examiner Burchmore: The rates are on a milling in transit basis?

5275 Mr. Scott: Milling in transit rates, entirely.

Commissioner Harlan: Are they so published?

Mr. Scott: Yes sir; all our tariffs are.

Examiner Burchmore: You apply divisions on hard wood lumber, as I understand you?

Mr. Scott: Yes sir.

Examiner Burchmore: What is the basis of rates on hard wood lumber from Huttig on your lines to interstate destinations?

Mr. Scott: I think generally they are about two cents lower than the combined rates.

Examiner Burchmore: What relation do they bear to the hard wood rate from — to points of origin on the Missouri Pacific system—on the Iron Mountain system, in this vicinity?

Mr. Scott: So far as I know—I have not investigated that point very thoroughly—but as a general proposition I think they are about the same as other points in that part of the country.

Examiner Burchmore: The same as from Felsenthal?

Mr. Scott: The same.

Examiner Burchmore: Why did you accept less divisions

5276 on hard wood than you receive on pine lumber?

Mr. Scott: Well, we cannot get any more from the Iron Mountain; that is all they will pay. We have no other outlet. We cannot demand any more. We have to take what they will pay us.

Examiner Burchmore: Why do they refuse to pay more, do you know?

Mr. Scott: I don't know what their argument is, they don't pay any more, however.

Examiner Burchmore: What reason have they assigned for their refusal to accord you division on hard wood?

Mr. Scott: These rates were all established at the time before the sale of the Little Rock & Monroe Railway. They have never changed, and I do not know what their argument is, but those were the rates that were established when the Little Rock & Monroe Railway was built, and so they agreed to pay the same division rates to the Louisiana & Pine Bluff.

Commissioner Harlan: You have not attempted to get a higher division since?

Mr. Scott: No, we have not asked for any greater division. We have not been moving hard wood very long.

5277 Examiner Burchmore: How long has hard wood been moved out of Huttig?

Mr. Scott: The movement you may say is just commencing now. The mill was constructed or the construction begun just about a year ago, and it has been in operation only a short time, and the lumber that has been cut is now there, and has not been shipped out yet, that is, a very small proportion of it.

Examiner Burchmore: Until recently the hard wood rate was what you might call a paper rate from Huttig.

Mr. Scott: Well, there was no movement.

Commissioner Harlan: What service do you perform on the pine for which you get five cents?

Mr. Scott: Well, we perform the same thing that we do with the hard wood, on the hard wood logs.

Commissioner Harlan: Is the rate published as a milling in transit rate?

Mr. Scott: Yes sir, the conditions of both companies are exactly the same, perform the same service for one as they do for the other.

Examiner Burchmore: Are there any bills of lading issued covering the in-bound movement of logs to the mill?

Mr. Scott: No sir.

5278 Examiner Burchmore: Any way-bills issued?

Mr. Scott: No.

Examiner Burchmore: I assume that the conductor makes some sort of a report to a superior officer at the end of his run of the number of carloads of logs he has brought in?

Mr. Scott: We have a report of every train that comes in, showing how many cars it contains.

Examiner Burchmore: When the lumber is shipped to interstate destinations, of course it is loaded at Huttig, but where is it billed from?

Mr. Scott: Billed from Huttig.

Examiner Burchmore: And the origin is shown in the bill of lading as Huttig?

Mr. Scott: Yes sir.

Examiner Burchmore: Then how do you say that the rates are on a milling in transit basis?

Mr. Scott: The tariff provides that the rate extends back to the point where the log is delivered to the Louisiana & Pine Bluff Railway.

Commissioner Harlan: Then it is a lumber rate?

Mr. Scott: Yes, sir.

Commissioner Harlan: It is not a milling in transit rate,

5279 is it, it is a lumber rate?

Mr. Scott: It is lumber milled in transit, I suppose.

Commissioner Harlan: Is it published as a milling in transit rate?

Mr. Scott: It is published in our lumber tariffs, naming rate from Huttig, and that tariff goes on to say that those rates extend

back to where the log originated, to where it is delivered to the Louisiana & Pine Bluff, to cover the service performed on the log into the mill and out.

Mr. Coleman: I was going to ask how he checked his tonnage?

Mr. Scott: We don't have any occasion to check the tonnage, because it all comes, it has no other outlet.

Examiner Burchmore: What you mean is that the same rate applies from all sections of your line?

Mr. Scott: Yes sir.

Examiner Burchmore: It makes no difference whether the shipment originates in the form of lumber at Huttig or whether it originates in the form of logs at Pigeon Junction for example, and is milled in transit at Huttig, the same rate would apply anywhere?

Mr. Scott: The same rate applies.

Examiner Burchmore: The same division.

5280 Mr. Scott: Yes sir.

Examiner Burchmore: As a matter of fact, the rate is not used as a milling in transit rate, because you bill the lumber as originating at Huttig?

Mr. Scott: All the tariffs carry the rate back to the point of origin of the logs.

Commissioner Harlan: That is simply the tariff way of explaining the form of your billing, isn't it?

Mr. Scott: Yes, it would be impossible to bill each car from the point where the car originates, because we cannot follow each log all the way in.

Mr. Coleman: Before we get off this line, I would like to ask one or two questions.

Examiner Burchmore: Ask them here.

Mr. Coleman: An f.o.b. price at the mill on hard wood, what is that based on?

Mr. Scott: The f.o.b. price at the mill, I could not tell you. We have not had any connection with the hard wood mill at all.

Mr. Coleman: Anybody here that can?

Mr. Scott: Not that I know of.

Examiner Burchmore: For what distance north of Dollar

5281 Junction are the rails laid?

Mr. Scott: I would say approximately about half a mile north of Dollar Junction.

Examiner Burchmore: Has any rail been laid on it since New Years?

Mr. Scott: No sir.

Examiner Burchmore: When was the line west of Huttig which now connects with the Eldorado & Bastrop at E. & B. Junction constructed?

Mr. Scott: Well, the construction part of it commenced as long as five years ago I would say starting from E. & B. Junction south, via the Eldorado & Bastrop. Later on we built it through from Huttig, connected the two branches at Pigeon Junction.

Examiner Burchmore: How long has that line been considered part of this railroad system?

Mr. Scott: We have not been operating it, you might say, until within the last eighteen months to any extent, and as an operating proposition it has not been considered prior to that.

Examiner Burchmore: You are operating it as a part of the private track of the Union Saw Mill Company?

5282 Mr. Scott: Logging Company.

Examiner Burchmore: Of the Logging Company?

Mr. Scott: Yes, to some extent, not altogether.

Examiner Burchmore: Has the line been purchased by this railroad?

Mr. Scott: It was built by the railroad originally.

Examiner Burchmore: Did the logging company and the saw mill company furnish the labor for building this line?

Mr. Scott: The railroad company built its main line.

Examiner Burchmore: They built all that line?

Mr. Scott: Built it, yes sir.

Examiner Burchmore: For a considerable length of time it was operated or part of it was operated by the logging company?

Mr. Scott: No, only to a limited extent up there on the first of it that we built before we operted much in there.

Examiner Burchmore: Take the five or six miles out of the E. & B. Junction, how long were they operated by the logging company?

Mr. Scott: Only temporarily until the track had settled to an extent where heavy engines could go down on the line. For a time there we had some short time timber in there and the tracks

5283 were not in very good condition, and the logging company undertook to bring that out to a point where the Louisiana & Pine Bluff Company made a train and carried it into Huttig. That was just a temporary arrangement under which they performed the service out a little further than ordinarily.

Examiner Burchmore: Did they pay anything for the use of that track?

Mr. Scott: No sir, we considered that they were saving us an expense in operating *and* not requiring us to go down there.

Examiner Burchmore: Do you report to the Interstate Commerce Commission your annual report accurately and show the facts with respect to the construction and operation, particularly operation, of this line between Huttig and E. & B. Junction?

Mr. Scott: So far as I know they do.

Commissioner Harlan: Who unloads the logs, the employés of the railroad?

Mr. Scott: The railroad company, yes sir.

Examiner Marble: I have here the annual report of your road for the year 1907, your name is signed to that as treasurer at that time, isn't it?

5284 Mr. Scott: I was secretary and treasurer at that time.

Examiner Marble: And you signed this report here, this is your signature here, is it not?

Mr. Scott: I think so.

Examiner Marble: Your statement of traffic in this report gives 5.38 miles in one item, the next item 41.06 with the note against it: "Forty miles to represent temporary tracks built and being operated

by persons getting out timber to be manufactured on the lines of this company, steel rails and fastenings being furnished by this company." And 112 miles, with the note: "Represents trackage rights of the El Dorado & Bastrop Railway Company, Little Rock & Monroe Railway, Farmerville & Southern Railway being operated by persons getting out timber to be manufactured on lines of this company." Then the further note: "Mileage item 1-A used in all computations in this report. That is the item 5.38 miles. What was that 5.38 miles that you used for your computation?

Mr. Scott: That was the line at Huttig, between Huttig and Dollar Junction, around in that neighborhood.

Examiner Marble: Between Huttig and Dollar Junction?

Mr. Scott: Yes, sir.

Examiner Marble: It must be more than the line between
5285 Huttig and Dollar Junction.

Mr. Scott: We have built the lines together, and our report explains that.

Examiner Marble: Please explain that report.

Mr. Scott: It belongs to the railroad company, which is now acting as——

Examiner Marble: It includes that spur track in their Huttig plant, the 5.38 miles?

Mr. Scott: It includes that belt running around the plant.

Examiner Marble: All the tracks through the plant as well?

Mr. Scott: I think probably I reported that shown as side tracks separately.

Examiner Marble: I don't find any sidings shown here. Taking your reports for the two following years, you report only 5.38 miles, ignoring the 40 miles, ignoring trackage?

Mr. Scott: We have a letter from the Commission instructing us to leave that out of consideration altogether.

Examiner Marble: Why?

Mr. Scott: I don't know what their reason was. They ordered us to cut it out, and in making the report next year we left it out.

Examiner Marble: They did not give you the reason?

5286 Mr. Scott: I think possibly they stated some reason, but I don't remember what it was, but the letter ought to be on file here.

Examiner Marble: What reason moved you in your report of 1907 to use only 5.38 miles in the report?

Mr. Scott: That was the line owned. The other was leased and under trackage arrangements, and that part of the line was reported by the Iron Mountain as its railroad, and we cut it out in order not to duplicate the mileage down there.

Examiner Marble: Why didn't you put those forty miles of road as temporary track being operated?

Mr. Scott: We put that return in there for information. We did not operate it, you know.

Examiner Marble: Where was that mileage that forty miles?

Mr. Scott: The forty miles represent the steel rail that we turned

over to the logging company to build these little spurs, off of the main railroad, these lines here (indicating).

Examiner Marble: In your report for 1910, instead of reporting the forty miles that you report in 1907 as temporary tracks, in your report for 1910, you have given the mileage of the Louisiana & Pine Bluff Railroad from Huttig, Arkansas, to Dollar Junc-

5287 tion, 5.38 miles, and in the Louisiana & Pine Bluff Railway from Huttig, Arkansas, to E. & B. Junction, 21.62 miles?

Mr. Scott: Yes.

Examiner Marble: When was that track constructed, that latter portion of 21.62 miles?

Mr. Scott: Principally in the last eighteen months.

Examiner Marble: It was not constructed at the time you made your report for 1909?

Mr. Scott: Yes, sir, it was when——

Examiner Marble: Was it constructed at the time you made your report for 1909?

Mr. Scott: I don't think it was constructed at that time.

Examiner Marble: Who constructed that track?

Mr. Scott: The Louisiana & Pine Bluff Railway.

Examiner Marble: I will ask you if you are familiar with your charter rights. Have you a charter for anything except twenty miles northwest from Huttig?

Mr. Scott: The charter calls for twenty miles to be built in a northwesterly direction.

Examiner Marble: You give in that report something over twenty-seven miles.

5288 Mr. Scott: Well, the matter of charters down there in that country is very liberal. It permits a railroad to build as much as they want to. They never prohibit your building your line out just because it goes beyond the limits of your charter.

Examiner Marble: Why did you put that in again this year after leaving it out the two previous years?

Mr. Scott: It has not been very clear to us just what the Commissions wanted. We put it in there, and if they wanted it out we would cut it out. We reported it that way to show the acual state of affairs.

Examiner Marble: This year you make another statement, that only 5.38 miles were used for purposes of computation. I understand that you have used 147 miles, including all these trackage rights?

Mr. Scott: No, we have used—I think you will find that we have used twenty-seven miles, which includes this new line that we built. We used an average haul of twenty-five miles, the average haul for logs. Some of them come in under trackage rights, and some of them over our own lines.

Examiner Marble: Who determined the form of this report, did you do that yourself?

5289 Mr. Scott: No, we have a man for auditor, that makes up the reports.

Examiner Marble: You tell him what to put in that report, don't you?

Mr. Scott: Why, where he is in doubt about anything he usually comes to me.

Examiner Marble: He comes to you for instructions, does he?

Mr. Scott: Yes, sir.

Examiner Marble: Do you advise with him?

Mr. Scott: Yes, sir.

Examiner Marble: I note that your gross revenue per year, 1907, $76,061; 1908, $67,298; 1909, $72,875; 1910, $78,714. They vary but little?

Mr. Scott: Yes, sir.

Examiner Marble: The years when you reported only 5.38 miles of track were almost as large as the years when you reported 147 miles of track?

Mr. Scott: Well, we reported under substantially similar conditions for all those years. As I stated, we reported the mileage where we only had trackage rights, but usually cut that out.

Commissioner Harlan: Do you mean that you performed
5290 no railroad operation on those trackage rights?

Mr. Scott: Yes, sir, and we reported them to the Commission and they told us to cut them out, and the next year we cut them out altogether. They had correspondence with us about it.

Examiner Marble: In your report for 1910 you report $35,508.74 for maintenance of way.

Mr. Scott: Yes, sir.

Examiner Marble: Do you maintain any of the tracks of the Iron Mountain?

Mr. Scott: No, we pay a mileage of 35 cents per train mile.

Examiner Marble: Do you charge that 35 cents per ton mile as under the heading of maintenance of way?

Mr. Scott: We charge it in whatever account it properly belonged, I don't know just which.

Examiner Marble: I want to find out what tracks you have charged this $35,000 on, how many miles of track?

Mr. Scott: Well, possibly that charge was, the greater portion of it was this track lying west of Huttig.

Examiner Marble: And that is twenty-one miles long?

Mr. Scott: No, sir; that construction is charged to operating expense.

5291 Examiner Marble: Do you charge the cost of that construction in the maintenance of way?

Mr. Scott: A portion of it. We had some correspondence with the Commission as to how that ought to be handled and took it into our accounts as you suggested.

Examiner Marble: Well, now, you have told me that this twenty-one miles was not long in existence. If you made a report for 1909, and in that year you spent $3,000 more for tracks, or say $38,931.49, I will ask you what tracks you spent that amount of money on?

Mr. Scott: The same line was in course of construction at that time, not being operated.

Examiner Marble: You don't report it as being any expense in that year?

Mr. Scott: Well, we are not reporting the lines we are not operating.

Examiner Marble: But the construction of that new line was charged as maintenance of way, didn't you answer?

Mr. Scott: Well, we charged it in operating accounts.

Examiner Marble: Caused a discrepancy in the operating account, because of that new line?

Mr. Scott: Yes, sir.

5292 Commissioner Harlan: You mean the Commission instructed you to do that?

Mr. Scott: Yes, sir. We told them that we were building a line out there for the purpose of bringing in logs, and requested them to advise us as to whether to carry that as construction?

Commissioner Harlan: A little bit louder.

Mr. Scott: We asked for that advice, as to whether to carry that as a construction account, or whether we should charge it into operating expenses, and they wrote us back to take it into operating expenses, the same as the expenses of any other track that might be built to develop tonnage.

Commissioner Harlan: I would like to have a copy of that letter.

Mr. Scott: I will try to get it for you. I have not got it with me. That was several years ago and we followed their suggestion.

Examiner Marble: Did you charge into these items the maintenance of way and other operations, the cost of putting down and taking up these temporary logging roads out into the forests?

Mr. Scott: We had nothing to do with the logging company whatever.

5293 Examiner Marble: You say that you did not charge those in?

Mr. Scott: No, sir.

Examiner Marble: In your report for 1908, under the head of transportation expenses, you have shown cash, all items over all other transportation expenses, $73,537.37, and you have this note against it: "This item includes expenditures for temporary spurs, for the purpose of securing freight forest products, shipped and to be shipped by this line when manufactured?"

Mr. Scott: Yes, sir.

Examiner Marble: Then at that time this road was paying the cost of putting down and taking up those temporary tracks, in 1908?

Mr. Scott: We also built there on the main line track—the Louisiana & Pine Bluff has always constructed the main line track from which the Logging Company builds lateral lines.

Examiner Marble: Is that note in your handwriting?

Mr. Scott: Yes, sir.

Examiner Marble: You made that yourself?

Mr. Scott: Yes, sir.

Examiner Marble: Will you read it to the Commissioner and tell us what it means?

5294 Mr. Scott: Well, probably he had better ask me, I don't know what information you want to get into.

Examiner Marble: I want to know what that means, a statement that you put in the report to the Commission and you have sworn to as being correct. I want to know what it means?

Mr. Scott: It means just what it says.

Examiner Marble: It does mean that these temporary spurs for the purpose of securing forest products were at that time charged to this railroad company's expenses?

Commissioner Harlan: Suppose you point out on the map one of those spurs that was embraced in that item?

Mr. Scott: We built this main line track from Lawson, for instance, this line right down to here (indicating on map). This is one of them. The logging company built it out here (indicating).

Commissioner Harlan: It was a temporary track?

Examiner Marble: What was the temporary spur on which you spent $75,000.00?

Mr. Scott: This track right there, that track has been pulled up. We just put this on there to indicate the general manner in which that was brought out.

5295 Examiner Marble: You have indicated a line here running south from Lawson. There are similar lines running north to points between Lawson and Urbana.

Mr. Scott: Yes sir, we built those.

Examiner Marble: Were those what you call temporary tracks?

Mr. Scott: Yes sir.

Examiner Marble: They were built by the railroad company?

Mr. Scott: The Louisiana & Pine Bluff Railway, that is the main stem, with branches from it built by the logging company.

Examiner Marble: They were afterwards torn up?

Mr. Scott: Yes sir.

Examiner Marble: You call the stem, the main stem. The temporary track in this report was not built by the railway.

Mr. Scott: That is track built by the Louisiana & Pine Bluff, yes.

Examiner Marble: Mr. Scott, you say that is the kind of track that the Commission directed you to charge to operating expenses?

Mr. Scott: Yes sir.

Examiner Marble: Then it was not this track running west from Huttig there?

Mr Scott: Well, we report all of it in the same manner.

5296 Examiner Marble: Now, do you mean us to understand that you were advised by the Commission to charge to operating expenses this permanent track running west from Huttig?

Mr. Scott: That track is built out in the forests there to bring us logs.

Examiner Marble: Then it is a temporary track, is it, the track running south from Lawson?

Mr. Scott: Unless it develops into a feeder——

Examiner Marble: You will take it up?

Mr. Scott: Yes, probably, as we did with that track right there (indicating on map).

Examiner Marble: Why isn't all of that temporary track properly a charge against the logging company rather than the railway company?

Mr. Scott: The railway company builds a track up there to induce the getting out of freight that would not otherwise develop.

Examiner Marble: Why doesn't the company build all the temporary tracks if they are going to build a portion of it?

Mr. Scott: It builds what we term main line tracks out into the timber, and the logging company builds off from it.

5297 Examiner Marble: Now, that item of transportation expenses in your report for 1908 was a total of $85,447.07 including this item of $72,000. If you had taken up these temporary tracks the following year, that item of transportation expenses dropped from $85,000, to $32,000, but your maintenance of way item increased from $11,000, to $38,000. Now, does that simply mean that your railroad out of these divisions—out of its income, whatever it may be, has been bearing the expense of putting down and taking up these temporary tracks in the forests—in 1908 you charged these to transportation expenses and in 1909 and 1910 you charge it to maintenance of way?

Mr. Scott: Well, it is just like the report shows there.

Examiner Marble: I will ask you if that is not what you did?

Mr. Scott: Well, the last two times we may. I think at one time we charged it to transportation expenses. The matter came up with the Commission about that time——

Mr. Walter: What year is that for, please?

Examiner Marble: The large item in transportation was in the year 1908, and in 1909 and 1910 it has been shifted to the maintenance of way account. Now, that includes labor simply, does it

5298 not, because the steel had been furnished by the railroad company at the beginning and this same steel is used over and over again for these temporary tracks.

Mr. Scott: Yes sir.

Examiner Marble: So that these charges——

Mr. Scott: Labor and grading usually relaying the tracks. You have to buy new fastenings.

Examiner Marble: It don't include the steel?

Mr. Scott: No, no steel charge at all. That is carried as a material account.

Examiner Marble: How many engines does——

Commissioner Harlan: May I interpose just a moment before you reach the question of equipment?

Examiner Marble: I am now going to the question of depreciation?

Commissioner Harlan: But just one question. You say these are temporary lines. Take the one running south from Lawson, how long was the main stem of that temporary line built by the railroad company?

Mr. Scott: Some seven or eight miles.

Commissioner Harlan: And the one that runs north from a point between Lawson and Urbana, how long was that?

Mr. Scott: Well, the map there is on a scale of three-quarters of an inch to the mile.

5299 Commissioner Harlan: Will you indicate what other temporary lines were built by the railroad company?

Mr. Scott: This one here (indicating on map).

Commissioner Harlan: You refer to the one running north from P. & B. Junction?

Mr. Scott: Yes sir, and the one running north between Urbana and Lawson.

Commissioner Harlan: The one running south from Lawson?

Mr. Scott: The one running south from Lawson.

Commissioner Harlan: And running west from Urbana?

Mr. Scott: That was built by the logging company, these lines here that we have already enumerated and this line.

Commissioner Harlan: What about this line from LaPile?

Mr. Scott: They were built by the logging company.

Examiner Marble: The line west of Huttig was built by the railroad company?

Mr. Scott: Yes sir, the plan we have followed there where the timber was very scattered running through a farming community, the railroad company built the main line, the spurs were temporary, and where there was any stand of timber, the logging company built their main line up close to the mill.

5300 Examiner Marble: Take this main line here south of Lawson, built by the railroad company, what was the extent of the logging roads built by the lumber company that ran into that spur, what was the length of them?

Mr. Scott: They built a trifle more line than we did.

Examiner Marble: That is, the logging line exceeded the length of the spur.

Mr. Scott: Yes, sir.

Examiner Marble: What ultimate compensation did the railroad company get for the expense of building these spur lines, temporary spur lines?

Mr. Scott: Securing that tonnage, and got an additional freight rate.

Examiner Marble: It paid out 35 cents per train mile?

Mr. Scott: Yes sir.

Examiner Marble: Then all it got was the division?

Mr. Scott: And the manufactured product.

Examiner Marble: Got the whole?

Mr. Scott: Yes sir.

Examiner Marble: It did not charge anything for hauling the logs into the mill, did it?

Mr. Scott: No sir.

5301 Examiner Marble: It paid out 35 cents a train mile for hauling the logs, and it had no claim against the lumber company up to that point?

Mr. Scott: The lumber company is obligated to ship the tonnage back over the line.

Examiner Marble: What could it have done if you had not?

Mr. Scott: If it was their intention we would have hauled no logs in there.

Examiner Marble: Was there any charge made against the lumber dompany for hauling the logs?

Mr. Scott: No charge for the service performed by the Louisiand & Pine Bluff.

Examiner Marble: How much track is shown on that blue print which is not now in existe-ce, which has been torn up?

Mr. Scott: There is about 75 or 80 miles, I think, altogether.

Examiner Marble: Shown here, that has been torn up?

Mr. Scott: That is in existence.

Examiner Marble: There is about 75 miles?

Mr. Scott: They are always building about so much road, because they had that much steel. The logging company has used more steel than the Louisiana & Pine Bluff does to building these lateral lines. They have that much steel in service.

5302 Examiner Marble: Do you know how many of the tracks shown on this blue print are now in existence?

Mr. Scott: Well, practically all of these in here are still in existence (indicating on blue print).

Examiner Marble: Are these in existence over here (indicating)?

Mr. Scott: No, these are not. All of the tracks connected with the Louisiana & Pine Bluff running west from Huttig, are practically all of them still in existence.

Examiner Marble: Are the tracks to the west of that point still in existence (indicating on blue print)?

Mr. Scott: Yes sir, part of them, part of them taken up.

Examiner Marble: Part of them in existence and part taken up?

Mr. Scott: Yes sir.

Examiner Marble: Going to the tracks north of Pigeon Junction, are those tracks in existence to the west of your line?

Mr. Scott: Part of them in existence.

Examiner Marble: Are these tracks to the south of Lawson in existence?

Mr. Scott: No.

Mr. Cowan: What would you consider as the limit in mile-
5303 age for one of those stubs which come off the main line?

Commissioner Harlan: The limit of cost?

Mr. Cowan: No, the limit in mileage.

Mr. Scott: The mileage would be limited by the quantity of lumber that could be secured. If the tonnage was not there, we would not build the line.

Mr. Cowan: No, but one of them is seven miles long.

Mr. Scott: Yes, we are operating on one part of the time that is something over twenty-one miles long.

Mr. Cowan: So that there is no limit to the amount that you might—to the length of what you call those main line spurs, that is, you do not in your mind give a definite length for these spurs or stubs?

Mr. Scott: What we call main line roads is lines constructed by the Louisiana & Pine Bluff Railway.

Mr. Cowan: That is what I mean. One of them would be seven miles or twenty-one miles, and those tracks might be more or less?

Mr. Scott: Yes, sir.

Mr. Cowan: My point is, you have no fixed idea in your mind as to what the limit of those stubs would be?

Mr. Scott: The limit would be the timber, the extent of
5304 the line, of course. As long as we get out timber, we build the line.

Mr. Cowan: Any time the railroad wants—when the logging company wants to get out logs the railroad would construct a track practically down to the timber, does it?

Mr. Scott: The main line tracks run through the body of timber and the logging company would build out from them, maybe their branch line would be ten miles long.

Commissioner Harlan: When you removed those temporary spur tracks, did you get the consent of the Arkansas Commission?

Mr. Scott: No, sir.

Commissioner Harlan: Just took them up?

Mr. Scott: Just like any other industrial track that is put down to get traffic. That is done in the lumber district all the time. The Iron Mountain could have taken it up, if it had been built for that purpose.

Mr. Cowan: I would like to ask a few more questions while I am here, because I have to go to another hearing, if that is agreeable to Mr. Marble?

Examiner Marble: Certainly, Judge Cowan, or any time.

Commissioner Harlan: Go ahead, Judge Cowan.

Mr. Cowan: From what source other than the division of
5305 rates do you derive the income of this railroad company, the report of which has been referred to?

Mr. Scott: Freight and passenger business and mail. We get everything we can, we try to make money.

Mr. Cowan: Does part of that come from operation over the logging spurs?

Mr. Scott: We would not have any revenue at all if it were not for the logging spurs, if we did not have some spurs to bring logs in we would not have any tonnage at all.

Mr. Cowan: My question is, your freight and passenger earnings you said were part of your earnings, and if it were not for these logging spurs——

Mr Scott: Outside of the lumber business, our business is very meagre.

Mr. Cowan: Do you charge for carrying passengers over these logging spurs?

Mr. Scott: No sir.

Mr. Cowan: You do charge for carrying freight over logging spurs?

Mr. Scott: Yes sir.

Mr. Cowan: What sort of freight?

Mr. Scott: We charge to carry any freight that goes to
5306 points beyond our line. For months there is no freight out of there. It is built out into the forest country to carry forest

products. Where that shipment is going beyond our line and we get no revenue from the finished product, we charge a regular freight rate on it.

Mr. Cowan: Does the lumber company pay your freight rates over the logging spurs for hauling logs which the lumber company buys from farmers—I think they have been designated as such—in that locality served by the logging spurs?

Mr. Scott: All of the logs shipped into the mill at Huttig are handled by the Louisiana & Pine Bluff Railway Company free of charge, on condition that they be manufactured and milled out over the line. It is a milling in transit proposition. Nobody pays any freight on forest products that come in to the manufacturers on our road.

Commissioner Harlan: Suppose a farmer has a trainload of logs up here on one of these temporary spurs, would you make no charge against him for hauling those logs to a hard wood mill, we will say, a lumber mill?

Mr. Scott: We never had a condition of that kind come up. The logs are bought by the mills, delivered out on the tram road, where they are loaded by the logging company, where they have
5307 facilities for loading the logs, and then they are brought in just like any other timber.

Mr. Cowan: Do you have a tariff that would apply if anyone wanted to take advantage of it from these logging spurs?

Mr. Scott: I might answer that in this way, that we have never had any occasion to put in a tariff. The natural market for all of that product is right there on our railroad. They have never had any application or any request to put in freight rates, if it was requested we would put it in.

Mr. Cowan: Well, the market is to the lumber company, and could not be to anybody else, if nobody else had a freight rate on which they could bring it out.

Mr. Scott: Anybody can go down there and buy the timber.

Mr. Cowan: And ship it over these logging spurs?

Mr. Scott: If they wanted to, yes sir.

Mr. Cowan: What would be the freight rate?

Mr. Scott: We have not established any rate, there has not been any occasion to make a rate.

Mr. Cowan: Then does your road hold itself out as a common carrier, if it makes no rates for the product it carries?

Mr. Scott: Yes sir.

Mr. Walter: The state of Arkansas, tariff in the state of
5308 Arkansas applies on local business?

Mr. Scott: Yes, sir.

Mr. Cowan: Does that apply to the logging spurs?

Mr. Walter: He has stated that he does not operate the spurs, he operates the main line.

Commissioner Harlan: No, he has not said that, Mr. Walter. He said he did operate the timber spurs.

Mr. Scott: We operate the spurs for logging business.

Mr. Walter: The main line spurs?

Mr. Scott: The main line spurs for log traffic.

Mr. Cowan: In the operation of a train under a train mileage arrangement with the Iron Mountain, do you get the right to haul other freights than forest products on that arrangement?

Mr. Scott: No, sir.

Mr. Cowan: Do you in fact haul other freight over the Iron Mountain under the trackage rights?

Mr. Scott: No sir, we only haul freight that the contract provide for, none other.

Mr. Cowan: Now, what business does the Iron Mountain carry on on this road on which you have trackage rights?

Mr. Scott: It operates a line the same as any other railroad does over in that country.

5309 Mr. Cowan: What is there for the Iron Mountain to handle?

Mr. Scott: There are industries on the Little Rock & Monroe aside——

Mr. Cowan: Do you know what per cent of the—what proportion of the traffic hauled over the track, taking the aggregate at one hundred, what proportion of that is traffic hauled by your company having the trackage rights?

Mr. Scott: I could not say.

Mr. Cowan: Have you any idea about it?

Mr. Scott: I would say that the Louisiana & Pine Bluff, if you will consider the volume, handle more stuff than the Iron Mountain do, but two thirds of that volume is wasted when it is manufactured.

Mr. Cowan: The tonnage is greater that you handle?

Mr. Scott: The tonnage is probably more than the Iron Mountain handles.

Mr. Coleman: I am curious to know if some charge is made for hauling the hard wood down to the mill?

Mr. Scott: No.

Mr. Coleman: Not at all?

Mr. Scott: No sir.

Commissioner Harlan: Mr. Marble, you may proceed.

5310 Examiner Marble: How near the plant of the Union Saw Mill Company at Huttig are the tracks of the Little Rock & Monroe Railroad and the Iron Mountain?

Mr. Scott: Well, the Iron Mountain runs right by the plant on one side. The plant covers about 160 acres.

Examiner Marble: How near to the tracks of the Louisiana & Pine Bluff are the tracks of the Iron Mountain at that point?

Mr. Scott: I think our tracks are something over half a mile apart.

Examiner Marble: And the lumber loaded on the Louisiana & Pine Bluff Railroad at Huttig, on which you receive the division of rates, is hauled straight away from the Iron Mountain road for a distance of about three miles to another point on the Iron Mountain Road, before being delivered up by you, is it not?

Mr. Scott: The lumber is all delivered at Dollar Junction, yes sir.

Examiner Marble: Why don't you deliver it at Huttig?

Mr. Scott: Because it all goes north and they prefer to receive it up there.

Examiner Marble: Why do they prefer to receive it up there?

Mr. Scott: It relieves them of the haul, I suppose.

5311 Examiner Marble: How much haul does it relieve them of?

Mr. Scott: Going in that direction it relieves them of about five or six miles.

Examiner Marble: By relieving them of five or six miles of haul from one point on their line to another point on their line, you get this division?

Mr. Scott: Yes, sir.

Examiner Marble: Whatever this logging proposition may be, of course, I don't want to omit that.

Mr. Scott: No, we have invested there a good many hundred thousand dollars in railroad. We have had a plant there, and I think you will find on the statement we have a capacity here on all these tracks of some five or six miles of side track down there in Huttig. We haul these logs in there, develop this tonnage here, we bring the logs in here, bring in the empty cars and take out the loads, issue bills of lading, bill the freight out, and we perform the service that the Iron Mountain or any other railroad would perform.

Examiner Marble: You might say that you are the originating road also?

Mr. Scott: We are the originating road, yes sir.

Examiner Marble: Do you furnish cars for loading?

5312 Mr. Scott: Yes sir; we do furnish these cars.

Examiner Marble: Or does the Iron Mountain furnish cars for transportation?

Mr. Scott: We get so much per diem for all cars out on foreign tracks, and we pay per diem for cars on our tracks.

Commissioner Harlan: Do you assess any demurrage against the lumber company?

Mr. Scott: Yes sir.

Commissioner Harlan: According to the regular demurrage rules?

Mr. Scott: Yes sir, according to the regular demurrage rules.

Commissioner Harlan: But you don't undertake the investment for furnishing the cars for outbound lumber, do you?

Mr. Scott: We use any cars that we can get. We won't undertake to furnish cars to ship all the lumber out of Huttig, no.

Examiner Marble: You don't furnish any of the cars, do you, except as you pay a per diem on them?

Mr. Scott: No, our cars don't go off our lines.

Mr. Coleman: What is that per diem?

Mr. Scott: It is 35 cents I think a day for six months,

5313 and 25 cents for six months, during the dull season.

Examiner Marble: Do you know how many engines your road has?

Mr. Scott: Twelve.

Examiner Marble: How many engines does the Union Saw Mill Company own?

Mr. Scott: It does not own any.

Examiner Marble: How many engines does the Huttig Company own?

Mr. Scott: Not any.

Examiner Marble: How many cars, freight cars, does the Louisiane & Pine Bluff own?

Mr. Scott: It is shown on the statement.

Examiner Marble: Does the Huttig Logging Company own any cars?

Mr. Scott: No sir.

Examiner Marble: Or the saw mill company?

Mr. Scott: No. The equipment is furnished by the railroad company.

Examiner Marble: The equipment being used on these trains is furnished by the railroad company then.

Mr. Scott: We furnish the cars.

Examiner Marble: In figuring your depreciation account
5314 in your annual report to the Interstate Commerce Commission, have you included the depreciation of these engines and cars when they were on these temporary tracks at the Huttig Logging Company, such injury as they receive then?

Mr. Scott: We have figured ten per cent on that equipment account, reduced that much per year.

Examiner Marble: Ten per cent?

Mr. Scott: That is the basis we are working on.

Examiner Marble: How long have you had these engines?

Mr. Scott: Well, the road was established, I think, in 1905. We have been acquiring some along from time to time, and we have one under construction now.

Examiner Marble: Are you still using the equipment you bought in 1905?

Mr. Scott: Yes, sir.

Examiner Marble: Are you still using the engines you bought in 1905?

Mr. Scott: The engines are all in service with one exception.

Examiner Marble: Were they new when you got them?

Mr. Scott: Part of them were new, but second hand.

Examiner Marble: But second hand when you bought them?

5315 Mr. Scott: Yes sir.

Examiner Marble: Isn't it a fact that ten per cent per annum is the usual commercial depreciation in the lumber business rather than in the railroad business, and that you are taking that ten per cent lumber company practice, rather than railroad practice?

Mr. Scott: Never heard of the practice in the lumber business. I don't know whether any of them use that basis or not. That is the basis that we figure on that would take care of the renewals to that equipment. We considered that would be a proper charge.

Commissioner Harlan: Did I understand you to say a moment ago that the logging company had no equipment at all?

Mr. Scott: No railroad equipment.

Commissioner Harlan: No locomotives and no cars?

Mr. Scott: No locomotives and no cars. They own all the other equipments such as teams, wagons, etc?

Examiner Marble: Who operates the trains from the forest we will say to Pigeon Junction?

Mr. Scott: The logging company. They have several locomotives that we turned over to them to bring the trains up. They operate and pay for the service, but we furnish the locomo-
5316 tives and they keep those locomotives in repair.

Examiner Marble: They keep them in repair, but they don't pay any rental.

Mr. Scott: They keep the cars in repair, they keep all of the logging cars in repair. Of course, we use them jointly, but they pay the repair bill.

Examiner Marble: They do not pay any rent for them?

Mr. Scott: No sir, keep them in repair.

Examiner Marble: They operate them with their crews?

Mr. Scott: Yes sir, out on their local lines, they have full control.

Examiner Marble: To whom does the Louisiana & Pine Bluff furnish this equipment? Does it furnish it to the Huttig Logging Company or to the Union Saw Mill Company?

Mr. Scott: The Huttig Logging Company.

Examiner Marble: Free?

Mr. Scott: Free, on the condition that they keep it in repair.

Examiner Marble: Otherwise free?

Mr. Scott: Yes, sir.

Examiner Marble: With regard to these temporary tracks in the forest, that right-of-way is owned by the Union Saw
5317 Mill Company?

Mr. Scott: No, sir.

Examiner Marble: The land on which the temporary tracks are built?

Mr. Scott: The Union Saw Mill has granted the Louisiana & Pine Bluff Railroad a right-of way anywhere it builds its tracks, yes.

Examiner Marble: You have a general right to build tracks on the land of the Union Saw Mill Company?

Mr. Scott: Yes sir, on any land that they own they give us a right-of-way.

Examiner Marble: The steel is owned by the Louisiana & Pine Bluff Railway?

Mr. Scott: Yes sir.

Examiner Marble: And the equipment is owned by the Louisiana & Pine Bluff Railway, and is loaned for the repairs upon it?

Mr. Scott: The railroad equipment, yes sir.

Examiner Marble: And the ties are owned by whom, by the Huttig Logging Company?

Mr. Scott: They furnish their own ties. For their own
5318 track.

Examiner Marble: You say that the engines out on cer-

tain spurs do not work clear into the mill, but stop somewhere midway?

Mr. Scott: Engines operated by the Louisiana & Pine Bluff Railway work from the point where the logs are brought out by the logging company, between that point and the mill.

Examiner Marble: I want to know just how those cars are handled. These cars loaded out at the extreme end of a temporary spur are handled by the Huttig Logging Company?

Mr. Scott: Yes, the logging company bring them up to what we call the main line.

Examiner Marble: Who hires the workmen, the logging company?

Mr. Scott: Yes sir; they pay all expenses up to the point of assembling the train.

Examiner Marble: Do they hire the workmen directly?

Mr. Scott: Yes, sir, we have no——

Examiner Marble: And the conductor?

Mr. Scott: Yes, sir.

Examiner Marble: And the engineer?

Mr. Scott: Yes sir, pay all expenses.

5319 Examiner Marble: And they bring those cars down to a junction with another temporary track?

Mr. Scott: No, they bring them to a junction where the Louisiana & Pine Bluff is operating every day.

Examiner Marble: And that company's engine takes up the cars?

Mr. Scott: An engine operated by the Louisiana & Pine Bluff Railroad Company takes the cars.

Examiner Marble: On their engine?

Mr. Scott: Yes sir.

Examiner Marble: The first man does not attempt to bring them to the mill at all?

Mr. Scott: No, they stay out in the woods, bringing loads down, assembling the loads out on the main line.

Examiner Marble: With another train crew?

Mr. Scott: The logging company operate independently altogether of the Louisiana & Pine Bluff. The Louisiana & Pine Bluff operate on the main line, pays all expenses, furnishes its own train crew, and the logging company does the same down on these lateral lines.

Examiner Marble: And the train crew on the logging line does not run through down to the mill, nor any member of it?

5320 Mr. Scott: No, not unless in case of a wreck or a breakdown, or something of that kind, that they have to come in there to the shop.

Examiner Marble: An emergency?

Mr. Scott: An emergency, then they come up on the main line.

Examiner Marble: Because it is necessary to clear it up?

Mr. Scott: Yes sir.

Examiner Marble: Who determines which track is operated by the Louisiana & Pine Bluff and which by the Huttig Logging Company?

Mr. Scott: The track that the Louisiana & Pine Bluff builds is operated by it and the track that is built by the logging Company is operated by it.

Examiner Marble: Who determines which track should be built by one and which by the other?

Mr. Scott: The railroad elects to say whether it will build the track or not.

Examiner Marble: Is that you, do you decide that question?

Mr. Scott: Well, I don't know that it would be left entirely to me. I would consult Mr. Johnson about a matter of that kind if there was any doubt about it.

Examiner Marble: You would consult Mr. Johnson?

5321 Mr. Scott: Yes, sir.

Examiner Marble: Who does the Huttig Logging Company consult in regard to the building of a track by it, Mr. Johnson?

Mr. Scott: Consults the railroad company, yes sir.

Examiner Marble: What?

Mr. Scott: They would consult the railroad company.

Examiner Marble: That would be you?

Mr. Scott: Well, it might be me, or might be some other member of the company.

Examiner Marble: Mr. Johnson?

Mr. Scott: Yes; if any dispute came up about it he would finally decide it.

Commissioner Harlan: Are you paid a salary by both companies?

Mr. Scott: Yes, sir.

Commissioner Harlan: And Mr. Frost's salary is paid by both companies?

Mr. Scott: He receives a salary from the Louisiana & Pine Bluff Railway, none from the Saw Mill.

Examiner Marble: Would Mr. Prestridge determine that problem, as to which company should build certain tracks?

Mr. Scott: Probably all of us would decide it. I would

5322 consult with him.

Examiner Marble: You know that he is President of the Huttig Logging Company, is he not?

Mr. Scott: Yes sir.

Examiner Marble: And he is general manager of the railroad?

Mr. Scott: Yes, sir.

Examiner Marble: And manager of the Saw Mill Company?

Mr. Scott: Yes, sir.

Examiner Marble: I should say he would be in a very advantageous position to reconcile all interests in deciding those questions.

Commissioner Harlan: He would have to concur with himself, arrive at a conclusion. Does he receive a salary from each one of those companies?

Mr. Scott: Receives a salary from the Union Saw Mill Company, and the Louisiana & Pine Bluff Railway, not from the Huttig Logging Company.

Examiner Marble: Who compensates him for his work as President of the Huttig Logging Company?

Mr. Scott: Well, his position with them is merely nominal. He is President of the company, but does not take any active interest.

5323 Examiner Marble: In your reports for 1908 and 1909 you show that the Louisiana & Pine Bluff corporation was controlled by the Union Saw Mill Company; identically the same question in the report for 1910, name of the controlling corporation or corporations, you answer: "None." Was there a change between 1908 and 1909, and 1910?

Mr. Scott: The situation was the same then as now. The Union Saw Mill Company owned the stock of the Louisiana & Pine Bluff.

Examiner Marble: The situation was exactly the same in all three years?

Mr. Scott: I don't think it has changed during that time.

Examiner Marble: Why did you change your answer?

Mr. Scott: I had not noticed it.

Examiner Marble: You swore to it.

Mr. Scott: The Saw Mill Company controls the stock. Now, whether that carries with it the control that you speak of, I do not know. It controls the stock, and that is stated in the report.

Examiner Marble: I think that is all.

Commissioner Harlan: Have you prepared a statement of your tonnage and revenues, and all those facts?

5324 Mr. Scott: Yes sir.

Commissioner Harlan: Are they in such condition now that we can take them and look them over?

Mr. Scott: I have some statements here, nothing very elaborate, that I can give to you. I have a list of the stockholders if you care for it.

Commissioner Harlan: Let me have them that I may look at them over night and question you in the morning.

Mr. Scott: All right.

Commissioner Harlan: The Commission will adjourn at this point until eight o'clock tonight, and Mr. Burchmore will hold a hearing then, with a view of hearing two minor cases tonight. We will resume with this witness at 9:30 tomorrow morning.

Whereupon at six P. M. an adjournment was taken until eight P. M.

5325 ST. LOUIS, MO., *January* 27, 1911.

Met pursuant to adjournment at 9:30 A. M.

Present: Parties as before.

Before Commissioner Harlan.

Commissioner Harlan: Mr. Scott, you may resume the stand.

Mr. Cowan: In the course of this investigation, proceeding to the close of course in a few days, and considering the great importance of it to the consumers and the public generally, and to the lumber interests of the country, not merely in the yellow pine forests but in other parts of the United States, considering the importance of the subject to the Interstate Commerce Commission, which it may

be assumed is charged now with the duty of regulating practically the relative rates at least in which lumber interests and the public are all interested, it seems to us, and I make the suggestion because of the position that my clients find themselves in, that those who are in fact charged with the responsibility of the ownership and operation of the great saw mill and lumber interests in the country
5326 have to the public, and of course to their business interests more particularly, that these who are in fact the owners and who therefore shape the policies and determine what their traffic men and their operatives do, ought to be the men who are called as witnesses to give the Commission the benefit of their evidence and their judgment, like Mr. Johnson does and Mr. Frost does and like Mr. Kirby expects to do. Now I want to point out at this time one of the very large competing interests, the Long-Bell Lumber Company and to request of the Commission, and I make this public request in the hope that Mr. Long will come forward without the Commission requesting it, that Mr. R. A. Long, owning such a large interest as he does both in the manufacture and sale of lumber, be called and examined on the part of the Commission. I understand he has been present and about here in St. Louis during this investigation, and I think it but fair. And I announce now that I expect to put Mr. Kirby on the witness stand; some gentlemen have been asking me about that; and the Lutcher-Moore Lumber Company and Mr. Stevenson, large interests competitive with us, and to make their statements like the Frost-Johnson people have done, and I see no reason why Mr. Long ought not to come forward and subject himself to cross-examination on the policies of all these large
5327 interests, instead of having men in his employ undertake to present to the Commission the moving causes of the different things that were done by the Long-Bell Lumber Company. I do that because it seems fair to me and to the public interest, and that the Commission would like to inquire, and we certainly want that done, and I make that open request without intending any criticism of Mr. Long; I do not mean that, but in order that we all may lay the whole field before the Commission so that those who are at least to be affected by whatever the Commission does will have presented their side of it from the witness stand so that the public can get it and it may be made of record.

Mr. Garwood: I hardly understand the impressive and solemn way in which counsel has referred to the request for Mr. Long's presence here. I can say to counsel that Mr. Long's roads have been up and he has been within reach of the Commission and always will be within reach of the Commission, and so far as the testimony of the various milling interests are concerned, I beg to assure the counsel that they will always be in reach to give him all the testimony that he wishes and perhaps more. As the Commission well knows, his roads have been up——

Commissioner Harlan: Well, if Judge Cowan thinks that
5328 Mr. Long's testimony will add anything to the record, perhaps it is the duty of the Commission to ask Mr. Long to present himself and give his testimony. I understand that to be the purport of the suggestion of Judge Cowan.

Mr. Cowan: Yes, sir. We have got to lay our business bare and the people I represent come here as the real men who are interested, and I think it would be perfectly fair for Mr. Long to do likewise.

Commissioner Harlan: Judge Cowan, do you have reason to believe that the testimony of Mr. Long will add some material facts to the record?

Mr. Cowan: I think it ought to.

Commissioner Harlan: Then we will ask that Mr. Long be made available as a witness.

Mr. Walter: I would like to make an inquiry. Yesterday a question from the Commission made reference to some 750 mills as compared with so many hundred others. Now that is far beyond any knowledge that any of the lumber interests have, and we would like to have the information if it is reasonable to ask it, giving the names of those mills, their location, and the nature of their business.

Commissioner Harlan: That is all available in the records
5329 of the Commission; but, Mr. Walter, we will not encumber this record with such a list as that. The question was put to the witness simply to draw from him an expression of his view of the justice and the propriety of the lawfulness of the allowances to a certain number of mills when other mills compete generally in the same markets without allowances. Counsel is aware of the fact that east of the Mississippi River there are very few allowances made, and yet those mills compete more or less actively in the market in the same kind of lumber. The figures have no particular relevancy, but it was simply to draw from him his expression as to whether those conditions did not create a discrimination.

Mr. Walter: It was not, as I understand, anything like the number of mills that are commercial bodies, nor did it disclose the situation in the United States, the Pacific Coast, east, west or south?

Commissioner Harlan: Those mills are hardwood and softwood mills anywhere in the United States and——

Mr. Cowan: In connection with what Mr. Walter said I wish to call attention to the fact that each of the railroad companies publish a list, I believe they do, of the saw mills and the places where they are located and the distance they are from the prominent markets, and the character of the output and the name of the road
5330 serving them. I know the Cotton Belt has it, and I have requested and they have furnished it, and I presume the others have; and it would be a matter of convenience if they could furnish them to the counsel in the case. They are prepared in very good style and are convenient for reference, and I think if those are furnished in sufficient number so we could all have them, it would be worth while.

Mr. Garwood: In that connection, counsel for the intervenors gave notice to the various lines to produce certain testimony—not testimony, so much, but statistics along that line, and our Texas lines have endeavored to comply with that and I have that information which I will be glad to give counsel. I understood that notice applied to all the trunk lines interested, and therefore to the Gulf, Colorado & Santa Fe and the Atchison, Topeka & Santa Fe.

Mr. Cowan: Yes.

Mr. Garwood: I presume that information will be forthcoming from the Gulf, Colorado & Santa Fe.

Mr. Coleman: I believe we publish that, do we not?

Mr. Hershey: Does it refer to mills located on our line that are not served by tram roads?

Mr. Garwood: And those that are served by tram roads, your total output of lumber divided into interstate and intrastate
5331 shipments, and your cost per ton per mile and——

Mr. Hershey: I have not been requested to give such information.

Mr. Garwood: There was a general notice to all the trunk lines interested.

Mr. Cowan: That is right, and it was a comprehensive set of statistics covering the traffic on all lines.

Mr. Garwood: I supposed, of course, that applied to the Gulf, Colorado & Santa Fe.

Commissioner Harlan: If the request was not intended to apply to them, the Commission would like to have it.

Mr. Coleman: We will prepare such statistics.

Mr. Jeffery: The printed information you asked for as to the location and so forth, I do not know that the Iron Mountain has it, but if we have, I will be glad to furnish it.

Commissioner Harlan: Before we go further, I would like to ask the counsel and witnesses in the following roads to adjourn to the adjoining room, where Examiner Burchmore will hear them: The Mississippi, Arkansas & Western, the Jefferson & Northwestern and Paragould & Memphis. All those interested in those cases will be kind enough to go into the adjoining room.

5332 (The testimony in the above cases will be found in the record of the supplemental hearing.)

Mr. Wood: In connection with the request Judge Cowan has made for these lists, I think it might not be inappropriate to have it appear in the record that I inquired from our Traffic Department some time ago whether there was such a list in existence and I was informed that it was, but it was not to be relied upon to any great extent as accurately showing the capacity or the output of the mills, because of the manner in which the information is collected. Now we will be very glad to furnish Judge Cowan with that information and we will also expect to furnish him with the information that he requested at New Orleans, although I was not advised until this week of what it contemplated; but I might say that that contemplates a showing of the output from each mill, and if that is shown, that will be a more correct index of the situation than these lists.

Commissioner Harlan: It is understood that counsel will approximate the request as far as possible.

Mr. Garwood: Would it be possible to postpone the examination of this witness while Mr. Allen of the Arkansas Commission is called?

5333 Commissioner Harlan: As soon as we have finished with this witness we will call him.

F. W. SCOTT, resumed the stand, and further testified as follows:

Commissioner Harlan: Is this map accurate in the sense that it shows all the present conditions, all the present line operated by the Louisiana & Pine Bluff?

Mr. Scott: With the exception of industry tracks in and around Huttig I think it is correct. It does not show them on there.

Commissioner Harlan: Is there not another track running eastwardly to the river that is not shown on this map?

Mr. Scott: There was a track running to the river but that has been abandoned.

Commissioner Harlan: What was the western terminus of that track?

Mr. Scott: From Felsenthal to the river.

Commissioner Harlan: What was the distance of that trackage?

Mr. Scott: About three miles.

Commissioner Harlan: And by whom was it built and when?

Mr. Scott: It was built for the Little Rock & Monroe Rail-
5334 way Company.

Commissioner Harlan: When was that?

Mr. Scott: It was reserved out of the sale of the Little Rock & Monroe Railway Company.

Commissioner Harlan: Was it built about the same time the Little Rock & Monroe Railway was built

Mr. Scott: Yes, sir.

Commissioner Harlan: And when the Louisiana & Pine Bluff disposed of that line it reserved the line to which you have just referred?

Mr. Scott: Yes, sir, that line was reserved.

Commissioner Harlan: What did you call that branch?

Mr. Scott: Well, we call it the Lake spur.

Commissioner Harlan: There is a lake over there?

Mr. Scott: The lake is not shown on the map.

Commissioner Harlan: What is the name of the lake?

Mr. Scott: Grand Marie.

Commissioner Harlan: How long was it operated by the Louisiana & Pine Bluff?

Mr. Scott: About three years, for the purpose of getting logs from the river, running logs that were floated down the river to the mill.

Commissioner Harlan: Where did those logs come from?

Mr. Scott: They came from the Ouachita and Saline
5335 Rivers, some of them a distance of 150 miles, some 25 miles, anywhere along the river.

Commissioner Harlan: From lands owned by the Frost-Johnson Lumber Company?

Mr. Scott: No, sir, very few of them. Most of them came from outside sources.

Commissioner Harlan: That was a part of the system of the Louisiana & Pine Bluff Railway?

Mr. Scott: Yes, sir.

Commissioner Harlan: Of its incorporated property, so to speak.

Mr. Scott: Well, that part of it over there was never incorporated. However we operated over it, we built in there to take care of that traffic and the traffic broke up and we took it up.

Commissioner Harlan: Who furnished the capital to build it?

Mr. Scott: The railway company furnished the capital.

Commissioner Harlan: You said it was not incorporated; perhaps that is not a clear phrase to describe that condition.

Mr. Scott: It was built by the railway company.

Commissioner Harlan: And therefore it was an intergal part of that system, was it not?

Mr. Scott: Yes, sir, we operated over it.

5336 Commissioner Harlan: Afterwards were the rails taken up?

Mr. Scott: Yes.

Commissioner Harlan: Did you carry any of your own logs over those rails, I mean those logs that came from your own lands.

Mr. Scott: Yes, sir, that came from the lands of the Union Saw Mill Company.

Commissioner Harlan: But the greater part of them were logs purchased from other forests?

Mr. Scott: Yes, sir.

Commissioner Harlan: Were they purchased delivered at the landing?

Mr. Scott: Some were bought that way, and, some bought delivered at the different landings along the river and floated down.

Commissioner Harlan: But none were purchased f. o. b. the mill?

Mr. Scott: No.

Commissioner Harlan: You took up the rails and sleepers, the ties?

Mr. Scott: Yes, sir, we removed the track. The traffic played out and we had no further use for that track.

Commissioner Harlan: Any farms over in that country

5337 west of the river?

Mr. Scott: Yes, sir, it is about the same kind of country on, that side as on the other side.

Commissioner Harlan: Is that a cleared country on that side around the lake?

Mr. Scott: No, sir, it is on the overflow, the river overflows the whole bottom in the spring of the year.

Mr. Marble: You did not mean to say that that map was otherwise correct, did you? You testified that the track shown on that map had been torn up.

Mr. Scott: This track is not on that map.

Mr. Marble: But you testified that other tracks that are on that map have been torn up?

Mr. Scott: Yes, sir. Some of these logging spurs have been torn up. The map indicates where they have been built.

Commissioner Harlan: You handed me last night a series of exhibits which you had prepared to be a part of your testimony. Let those be marked.

(The papers so offered and identified, were received in evidence and thereupon marked Louisiana & Pine Bluff Exhibits Nos 1 to 7 inclusive, received in evidence January 27, 1911, and are attached hereto.)

5338 Commissioner Harlan: The one which the stenographer has marked Exhibit No. 1, shows the distribution of your capital stock. The company has $300,000 of issued stock from which according to this exhibit 2,990 shares belong to the Union Saw Mill Company. On this list there are the names of ten persons, including Mr. Frost and Mr. Johnson and yourself and your counsel and others who each hold one share.

Mr. Scott: Yes, sir.

Commissioner Harlan: I suppose that was to qualify them as incorporators?

Mr. Scott: Incorporators or directors, yes, sir.

Commissioner Harlan: And they hold those ten shares really in trust for the Union Saw Mill Company, I assume.

Mr. Frost: Yes, sir.

Commissioner Harlan: The next exhibit is entitled general balance sheet, and has been marked Exhibit No. 2. It purports to show the financial condition of your company on June 30, 1910. Among the assets is an item "cost of road, $136,000 plus." Do you understand that to have been the actual cost of constructing all the lines which you have described except those that were built out of operating expenses?

Mr. Scott: Yes, sir.

Commissioner Harlan: It includes this lake line which
5339 you have just mentioned?

Mr. Scott: No—that is included in that figure, that length of track that was taken over by the Louisiana & Pine Bluff was built before the organization of the Louisiana & Pine Bluff.

Commissioner Harlan: It includes the cost of the road running west from Huttig to the E. & B. Junction?

Mr. Scott: It includes the road running north of Huttig.

Commissioner Harlan: That road is how many miles in length all told?

Mr. Scott: We carry it at 5.38 miles, and it also includes all the side tracks and industry tracks.

Commissioner Harlan: But it did not include the road shown on this map running west from Huttig and thence north to that E. & B. Junction?

Mr. Scott: No. That part of the road is charged into the operating accounts.

Commissioner Harlan: Did it include the cost of the Monroe extension?

Mr. Scott: The Farmerville extension?

Commissioner Harlan: Well, what you call the Little Rock & Monroe, that is not included in this item, is it?

Mr. Scott: The Little Rock & Monroe was sold to the Iron Mountain.

5340 Commissioner Harlan: Therefore it is not in this item of cost of road?

Mr. Scott: No, the Louisiana & Pine Bluff was constructed after the sale of the Little Rock & Monroe.

Mr. Marble: Did that item include the cost of the steel on the road running from Huttig to the E. & B. Junction?

Mr. Scott: Yes, sir.

Commissioner Harlan: The next item is the equipment, $191,000 plus. Is it your under-standing that is the actual cost of the equipment?

Mr. Scott: Yes, sir.

Commissioner Harlan: Shown on another exhibit here?

Mr. Scott: The actual cost of equipment.

Commissioner Harlan: Then under the general heading of "working assets" you have an item for materials and supplies of $128,000. What does that mean?

Mr. Scott: That represents steel rail that we carried and which is used by the logging company in connection with getting out logs.

Commissioner Harlan: How many miles of such rail have you?

Mr. Scott: We had in service altogether approximately about 75 miles.

Commissioner Harlan: When you say 75 miles, that means

5341 miles of double rail, does it?

Mr. Scott: Yes, sir.

Commissioner Harlan: Is there any other material included in that item besides the rails?

Mr. Scott: Rails and fastenings, such as angle bars.

Commissioner Harlan: On the liability side you have an item entitled "Miscellaneous accounts payable $193,000 plus." What is that?

Mr. Scott: That is mostly indebtedness to the Union Saw Mill Company.

Commissioner Harlan: Of what nature, for what purpose?

Mr. Scott: Money advanced, and also the Union Saw Mill Company was indorser on notes of the Louisiana & Pine Bluff Railway. Originally I think the notes amounted to something over $200,000. The railway company was not financially able to take those notes up, and the Saw Mill Company had to pay them and charge them to the railway company account.

Commissioner Harlan: What did those notes represent?

Mr. Scott: They represented money that was borrowed.

Commissioner Harlan: For what purpose, I mean.

Mr. Scott: For the construction of this Louisiana & Pine Bluff Railway.

Mr. Marble: Did it not cover the cost of material bought

5342 by the Union Saw Mill Company for the construction of the railroad and charged to the railroad and notes given for that charge?

Mr. Scott: It was borrowed from a bank here in St. Louis and was used in purchasing equipment and buying material, and whatever we needed in connection with the railroad.

Commissioner Harlan: On the liability side is another item of capital stock $300,000. That is held by the Union Saw Mill Company. Now did they advance to the railroad company the cash for that stock?

Mr. Scott: Yes, sir.

Commissioner Harlan: And in addition they loaned you their credit to the extent of some $200,000 more?

Mr. Scott: Yes, sir.

Commissioner Harlan: And all that fund consisting of approximately half a million dollars was used in the construction of your rail line and purchase of your equipment?

Mr. Scott: Yes, sir.

Commissioner Harlan: Now does that item of approximately half a million dollars include anything on account of this Little Rock & Monroe Line?

Mr. Scott: No, sir.

Commissioner Harlan: That is all out of this account?

5343 Mr. Scott: The Little Rock & Monroe line was sold before we opened the books for this new road. This was built after the sale of that road and it had no connection whatever.

Commissioner Harlan: So that that line does not enter into these exhibits at all?

Mr. Scott: No.

Commissioner Harlan: Nor does the Farmerville Line enter into these exhibits?

Mr. Scott: No.

Commissioner Harlan: Do counsel desire to ask any questions in regard to this general balance sheet? The next exhibit is No. 3, which shows the equipment of your company, consisting of 12 locomotives and 234 cars of one kind and another, including one combination passenger coach.

Mr. Scott: Yes.

Commissioner Harlan: Exhibit No. 4 shows your total tonnage for the year ending June 30th, 1910, to have been 321,308 tons of which all consisted of lumber or lumber products except 3,835 tons. My understanding is that of the last named tonnage a considerable part consisted of bituminous coal; is not that true?

Mr. Scott: Yes, sir.

5344 Commissioner Harlan: As much as half, or perhaps more. Whose coal was that, was it used by the Saw Mill Company.

Mr. Scott: And in logging operations.

Commissioner Harlan: And by the railway company?

Mr. Scott: And by the railway company.

Commissioner Harlan: Then this exhibit shows the manufactured lumber and staves to the extent of 79,000 tons. It is my understanding from your testimony and the president of the company, Mr. Johnson, that a very large part of that consisted of lumber and

staves manufactured from logs that came from the lands of the Frost-Johnson Lumber Company.

Mr. Scott: The greater part of it, yes, sir.

Commissioner Harlan: Exhibit No. 5 shows the total revenue for the year ending June 30th, 1910, from passenger traffic of $587.24 and for mail $101.31; it shows no revenue from the express. Do you carry express matter?

Mr. Scott: No, we do not handle express.

Commissioner Harlan: At the foot of that exhibit are shown your operating expenses for that year, and you assigned to maintenance of way and structure an item of $35,000 plus. Was that a cash expenditure?

Mr. Scott: Well, we pay every month, yes, sir, the money that we actually spend for that service.

5345 Commissioner Harlan: Do you mean that you as Treasurer vouchered out that sum during that year in cash?

Mr. Scott: There may have been one or two bills that have not been paid.

Commissioner Harlan: I do not mean that, but it is a cash expenditure?

Mr. Scott: Yes.

Commissioner Harlan: You also have an item of maintenance of equipment to the extent of $29,000 plus. Was that also in the same sense a cash expenditure during that year?

Mr. Scott: Well, there is approximately $20,000 charged against that account for depreciation which is included in that amount.

Commissioner Harlan: And that of course was not in cash?

Mr. Scott: No.

Commissioner Harlan: As against the depreciation account, do you have a right of way account that absorbed some of that depreciation reserve?

Mr. Scott: No, we only charge against the credit account that we set up new equipment that we purchase to replace the old. Ordinary repairs are all charged into operating accounts.

Commissioner Harlan: Well, the operating account, do you
5346 mean the transportation expense?

Mr. Scott: Yes, sir, ordinary repairs are charged to transportation expense.

Commissioner Harlan: Do you know to what extent you replaced your equipment?

Mr. Scott: During that year we made no replacements, but we are making some this year. We have some——

Commissioner Harlan: Then you have an item in the same exhibit, transportation expense $29,000. That of course was a cash expense?

Mr. Scott: Yes, sir.

Commissioner Harlan: Making a total with the general expense added of $98,000 plus against your gross earnings of $78,000 plus, or a net loss of $20,000 plus, and showing also a ratio of operating expense to operating revenue of 125.49 per cent. Now considering that statement from the standpoint of cash, you lost $20,000 during that year?

Mr. Scott: Yes, sir.

Commissioner Harlan: And on another exhibit you show a total expense to profit and loss on the lost side of $85,000 plus.

Mr. Scott: That is the loss for the whole period since the road has been in operation.

5347 Mr. Walter: What exhibit number is that?

Commissioner Harlan: That is Exhibit No. 2. I want to ask this question just in that connection, whether the Frost-Johnson Lumber Company or the Union Saw Mill Company has at any time supplied the railroad company with cash?

Mr. Scott: Yes, sir, very frequently.

Commissioner Harlan: To make up these losses?

Mr. Scott: Whenever we get out of cash we call on them for it; that has been our practice. They have been furnishing the money to meet the bills when required, and charging it to our account; that is the Union Saw Mill, I should say, instead of Frost-Johnson Company.

Commissioner Harlan: The Union Saw Mill?

Mr. Scott: Yes, sir, the Union Saw Mill and not the Frost-Johnson

Commissioner Harlan: The next exhibit No. 6 shows that for the period of six months ending December 31st, 1910, your revenues on lumber and forest products in which the Union Saw Mill Company had no interest, amounted to $1,000. I will ask you if a part of that revenue and a large part did not come to you on logs taken from the Frost-Johnson forests?

Mr. Scott: That revenue represents shipments made by the Wisconsin Lumber Company, probably 50 per cent of it; the

5348 other 50 per cent is represented by shipments of staves made by various individuals, and to some extent shipments of lumber made by a small mill located adjacent to our line.

Commissioner Harlan: My inquiry goes a little beyond that to show whether most of the logs manufactured by these outside people did not come from the forest of the Frost-Johnson Company.

Mr. Scott: To some extent they did, but not altogether.

Mr. Coleman: May I ask a question at this point. I understood yesterday that you said that you got no revenue for hauling the hardwood logs down to the mill.

Mr. Scott: Where they are manufactured on our line we get no revenue on the inbound shipment of logs.

Mr. Coleman: Inbound?

Mr. Scott: Into the milling point; we only get revenue as it goes out on the manufactured product.

Mr. Walter: It is all a milling in transit rate, is it not?

Mr. Scott: Yes, sir.

Commissioner Harlan: Any further questions of this witness?

Mr. Marble: You testify that certain steel rails were included in these statements of cost of road, and certain other steel rails in the cost of materials and supplies.

5349 Mr. Scott: Yes, sir.

Mr. Marble: What is the distinction between the two lots of rails?

Mr. Scott: Well, that carried in the material account is rail that is used in logging service.

Mr. Marble: Belonging to the Huttig Logging Company?

Mr. Scott: It belongs to the Saw Mill Company but is used by the logging company in building out spurs into the timber.

Mr. Marble: Have you said just what you intended to, that it belongs to the Saw Mill Company?

Mr. Scott: It belongs to the railway company and which is used in getting out logs, and used for that purpose.

Mr. Marble: We want to be careful to distinguish between the railroad company and the saw mill company, so as not to get them confused. Have you an extension from Farmerville?

Mr. Scott: Yes, sir.

Mr. Marble: Was the cost of that extension shown in the cost of road in the balance sheet?

Mr. Scott: Well, that is constructed mostly within the last six months; it is not in that balance sheet.

Mr. Marble: In what account is the cost of construction of that road carried?

5350 Mr. Scott: It is charged to operating accounts.

Mr. Marble: That is new roads?

Mr. Scott: Yes, sir.

Mr. Marble: And it is by charging new road into operating account that you show a loss of $20,000?

Mr. Scott: That new line is charged into operating account.

Mr. Marble: And by subtracting that operating account from your income, you show a loss of $20,000.

Mr. Scott: That statement shows a loss.

Mr. Marble: Do you know the cost of that new road?

Mr. Scott: No, it is not in that statement, however, it has been built since that time, most of it.

Mr. Marble: This road to the west of Huttig, this 20 miles long, is also credited into operating account.

Mr. Scott: Yes, sir, that is the grade and ties.

Mr. Marble: If you had built more new road you would have had still greater loss.

Mr. Scott: Well, if we had built more road we might have had more revenue.

Mr. Marble: Your income has not increased according to your last four years' statements with your increase in mileage, has it?

Mr. Scott: The income has been pretty much the same for
5351 the last four years.

Commissioner Harlan: I understand you charge to operation the cost of that road west of Huttig because you expect to tear it up when the lumber has been taken off your line.

Mr. Scott: Unless there is something develops there that would justify us in keeping the road there and operating it.

Mr. Marble: Do you make a ton mile revenue computation for the Interstate Commerce Commission?

Mr. Scott: We filled out all the reports there. I think——

Mr. Marble: You show on your Exhibit No. 5 earnings per ton per mile of 9.7 mills. Now what mileage did you use in making that computation?

Mr. Scott: We used the distance that we handled the product.

Mr. Marble: The distance that you handled the product, the lumber?

Mr. Scott: The lumber and logs, both.

Mr. Marble: Now then, that is what I want to get at. Do you keep track of the shipments of logs so that you know the distance each shipment is handled.

Mr. Scott: We know the approximate distance.

Mr. Marble: How do you determine the approximate dis-
5352 tance?

Mr. Scott: In the report last year we approximated the distance of handling logs at 25 miles, that we hauled the logs in.

Mr. Marble: Is not that the maximum distance that you haul logs?

Mr. Scott: No, it is the average distance as near as we can get it.

Mr. Marble: What is the maximum distance that you hauled the logs last year?

Mr. Scott: I will say about 35 miles.

Mr. Marble: From what point would that be?

Mr. Scott: Up in the neighborhood of El Dorado.

Mr. Marble: Coming down the main line of the Iron Mountain to Dollar Junction and across from Dollar Junction to the mill?

Mr. Scott: Yes.

Mr. Marble: And does a considerable portion of your logging supply come from that point?

Mr. Scott: No.

Mr. Marble: What percentage?

Mr. Scott: I would not suppose more than 20 per cent.

Mr. Marble: What percentage comes across from points on
5353 the E. & B. Line direct to Huttig, your line from Huttig west?

Mr. Scott: The greater portion of the logs came over that line last year.

Mr. Marble: What distance are they hauled?

Mr. Scott: Probably 20 miles.

Mr. Marble: Then they come from the junction with the Iron Mountain Road, do they not?

Mr. Scott: Well, during that period most of them came from up in that neighborhood, yes.

Mr. Marble: You went clear up to the junction to cut the logs and the line is only 20 miles long.

Mr. Scott: We brought them around both ways; most of the time we operated over the Iron Mountain and brought them down by E. & B. Junction and Dollar Junction to Huttig.

Mr. Marble: Did you keep any sort of day by day records showing the particular distance any particular logs were hauled?

Mr. Scott: No, just averaged the distance.

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Mr. Marble: Just an offhand guess from your knowledge of the distance?

Mr. Scott: Yes, sir.

Mr. Marble: What relationship between the weight of the
5354 logs and the weight of lumber did you take into account in making that computation?

Mr. Scott: We figured the weight of the logs three times the weight of the lumber.

Mr. Marble: That is the way you determined the weight of the logs?

Mr. Scott: Yes, sir.

Mr. Marble: Now each pound of lumber you counted as four pounds of traffic in that computation?

Mr. Scott: Yes, sir.

Mr. Marble: And you made no charge against anybody for the haul of the three pounds of logs?

Mr. Scott: We made no charge for hauling logs manufactured on our railroad.

Commissioner Harlan: You take your operating expenses over all this trackage and on the other side you compute the figure that Mr. Marble has referred to on this short line between the mill and Dollar Junction.

Mr. Scott: We take all the operating expenses into the operating account; I do not know whether I understand. We operate over these tracks, and it goes in as part of our operating expenses, and we brought the material in and we figure we haul it an average distance of 25 miles.

5355 Mr. Marble: Do you compute your revenues on the short line from the mill to Dollar Junction and as against that you charge all your operating expenses over all these lines?

Mr. Scott: In arriving at the per ton mile haul we compute the distance we handle the stuff, logs in and lumber out.

Mr. Marble: To go to your report for 1907, are you familiar with that? Showing you the item on page 27 of that report, cost of road, equipment and permanent improvement, a total construction cost of $104,586 plus. In that amount of $104,000 interest and discount is charged as $29,699. Can you explain how so large an amount of interest and discount could arise, how it did arise and what the rate of interest paid was?

Mr. Scott: I think the rate of interest paid was six per cent.

Mr. Marble: How long did you pay six per cent to have it amount to $29,000 on less than $80,000?

Mr. Scott: The total investment in the road and equipment is approximately half a million dollars, and six per cent on half a million dollars for one year would be $30,000. The interest charges there are for the whole amount we had.

Mr. Marble: In this item on this page you have included
5356 interest on equipment cost as well, have you?

Mr. Scott: I would suppose so; that is the place provided for it to be put into the report.

Mr. Marble: Referring to the next page of the same report you show the total cost of construction, equipment and everything of this road, to June 30th, 1906, as $173,632 and the total cost to June 30th, 1907, as $268,998. Now I will ask you again how that item of $29,000 for interest and discount was figured.

Mr. Scott: Figured on money that we had borrowed or money that we owed; we probably had money on hand; it was not necessarily all spent.

Mr. Marble: You had borrowed money that you had not used, you think?

Mr. Scott: Well, that is my idea about it.

Mr. Marble: Do you remember anything about that?

Mr. Scott: I do not remember the details of it now, no.

Mr. Walter: Is that the year ending June 30th, 1907?

Mr. Marble: Yes. Was the cash paid in for your capital stock, $300,000.

Mr. Scott: The stock was subscribed by the Union Saw Mill Company.

5357 Mr. Marble: Yes, and they paid in $15,000 at first.

Mr. Scott: They did not pay cash; they had some equipment that they reserved in the sale of the Little Rock & Monroe Railway.

Mr. Marble: They did what?

Mr. Scott: They reserved equipment when the Little Rock & Monroe Railway Company was sold.

Mr. Marble: How much equipment did they reserve?

Mr. Scott: They had some locomotives and cars and steel rails, and so forth; I do not recall just how much.

Mr. Marble: They had the steel rails which you had loaned to the Huttig Logging Company?

Mr. Scott: No, the steel rails belonged to the Union Saw Mill Company, and it turned all that property it had over to the railroad company.

Mr. Marble: And then the railroad company loaned those to the Huttig Logging Company for these spurs out into the woods?

Mr. Scott: The steel rails and equipment that the saw mill company acquired when it sold the Little Rock & Monroe Railway was turned over to the Louisiana & Pine Bluff and charged to it, and the $300,000 stock was charged to the Union Saw Mill Company.

5358 Mr. Marble: What was the value of the property turned over by the Union Saw Mill Company?

Mr. Scott: I could not state.

Mr. Marble: Was it figured?

Mr. Scott: The value was figured, yes, sir.

Mr. Marble: Well, was it $300,000?

Mr. Scott: No, it did not amount to $300,000.

Mr. Marble: It did not?

Mr. Scott: No.

Mr. Marble: Was the value of these trackage rights over the Iron Mountain Road figured?

Mr. Scott: No.

Mr. Marble: You did not count that worth anything?

Mr. Scott: We did not put it on the books; there is nothing charged by the Saw Mill Company except at the cost price.

Mr. Marble: How much money was put up, do you know?

Mr. Scott: By whom?

Mr. Marble: By the saw mill company on account of this $300,000 capital stock?

Mr. Scott: It put up more in material and money, we still owe it $193,000.

Commissioner Harlan: Mr. Marble asks what cash was paid
5359 into the railroad company on account of this $300,000 capital stock?

Mr. Scott: It has paid in excess of that amount, that is the saw mill company——.

Commissioner Harlan: Just a moment. I understood you to say in response to a question from me that the saw mill company advanced $300,000 cash to the railroad company. You now explain that the saw mill company got that $300,00 of stock partly for property that it conveyed——

Mr. Scott: Property and cash together.

Commissioner Harlan: Now then, Mr. Marble's precise question is, how much cash the saw mill company paid to the railroad company on account of that stock?

Mr. Scott: Well, it took up obligations of the railway company to the extent of something over $200,000, that is one item, and it has advanced at various times——

Commissioner Harlan: But are not those obligations represented in another item of $193,000 on your balance sheet, miscellane-
5360 ous accounts payable? You explained to me that that represented——

Mr. Scott: Maybe I can explain it in this way: The railroad company and the saw mill company run open accounts with each other, and when this material was turned over to the railway company it was charged to it. When any money was advanced by the saw mill company, it was charged to the railway company, and when these obligations were taken up the saw mill company of course charged it to the railway company, and this $300,000 capital stock was charged against the saw mill company, and the difference in those accounts is represented by that $193,000 there.

Mr. Marble: The saw mill company then owes $193,000 on account of the $300,000?

Mr. Scott: No, the railway company owe the saw mill company $193,000.

Mr. Marble: Then it has received $493,000, is that right?

Mr. Scott: That much has been advanced, that amount in excess of the stock subscription.

Commissioner Harlan: You do not mean that. You do not mean that $493,000 has been advanced in excess——

Mr. Scott: No, I mean $193,000 in excess, making $493,000.

Commissioner Harlan: Putting it in another way, the saw mill

company has advanced in property and cash to the railroad company approximately half a million dollars, is that what you mean
5361 to say?

Mr. Scott: Yes, sir, they advanced all their money and the property out of which this railroad was built.

Commissioner Harlan: Then can you tell us what the road cost to construct the roadbed and to purchase the right of way and the ties and rails?

Mr. Scott: Approximately half a million dollars, as set out in that statement.

Commissioner Harlan: Can you tell us what value was placed on the physical property turned over by the saw mill company to the railroad company?

Mr. Scott: The value that was turned over to the railroad company had the same cost that the saw mill paid for it when it acquired it.

Commissioner Harlan: You have said that, but what was that amount?

Mr. Scott: I could not state. They bought some rails and locomotives——

Commissioner Harlan: That appears on the books of both companies, does it not?

Mr. Scott: Yes, sir.

Commissioner Harlan: I wish you would ascertain it and let us know later.

5362 Mr. Marble: Your report for 1907 which I have already shown you, on page 29 shows grand total construction, equipment, and so forth, $268,998. Then your report for June 30th, 1910, the investment since June 30th, 1907, total including equipment and track and general expenditures and law expenses, taxes, and everything, shows a further investment of $59,197.28, and in this item is a further charge of $15,358.57 or approximately one-quarter of the added amount for interest and commissions, making a total of $328,196.23, of which approximately $45,000 is interest and commissions, that is the grand total of cost of road and equipment and all expenses in organizing it, including taxes.

Commissioner Harlan: Are you able to reconcile that figure with your Exhibit No. 2?

Mr. Scott: That exhibit No. 2, those same figures appear on the report for that year. That is taken from the reports for that year: they are identical.

Mr. Marble: What I want to get at is this. You have $300,000 capital stock, which stock was turned over when you began operations, to the Union Saw Mill Company, so you are entitled to the use of that amount of capital without any interest or commission, and deducting your interest and commissions, you have
5363 charged up to date from the $328,000 would be considerably less than $300,000. Does it not mean that this road is bearing the cost of the logging for the Frost-Johnson Company, and that is the way these heavy expenses on the road appear?

Mr. Scott: No.

Mr. Marble: The laying of these temporary tracks you laid down and take up, and the loan of this equipment for the temporary track and the steel for the temporary track, is not that the story of the whole thing?

Mr. Scott: I would rather answer one question at a time.

Mr. Marble: Well, I will ask you what has been done with the balance of the money and property which you say has been received from the Union Saw Mill Company, the $300,000 for the capital stock and about $190,000 in addition, was that your figure? And you show in your report a total cost without deducting depreciation of your property including about $45,000 interest and commissions, and $328,196. I want to be informed about that.

Mr. Scott: I think you have misread your figures. We show equipment accounts there one hundred and ninety some thousand dollars, and we show cost of road at how much?

5364 Mr. Marble: I am giving you your total as I read it here of everything including equipment.

Mr. Scott: You look up beyond there and you will see a deduction made for depreciation.

Mr Marble: No, the deduction is made from that figure, bringing the net total down to $272,405.

Mr. Scott: What is it you want to know?

Mr. Marble: I want an explanation. You say you have had $300,000 in property and money, and about $190,000 more as I remember your figures, and you show here the total cost of your plant including equipment and everything and including about $45,000 interest at $308,000. Now I want to know what the road has done with the balance of the road and the property?

Mr. Scott: All the money has either been lost in operation or spent in building the road and equipping it. The reports which we have sent in to the Commission set out the exact status of affairs and the accounts as shown here are correct, and I think the Commission has accepted these reports and from an accounting standpoint I think they are correct. They have made no complaint about it, about this one.

Mr. Marble: This is not a complaint, this is simply asking 5365 you to explain.

Mr. Scott: Well, all the money that we have acquired has been invested in the road or lost in operation.

Mr. Marble: Or lost in operation.

Mr. Scott: There is about $80,000 loss there since we have been in operation.

Mr. Gaughan: Counsel asked the witness something about that commission entry. Mr. Johnson can explain that in just a word.

Commissioner Harlan: You mean commissions and discounts?

Mr. Gaughan: Commissions. The railroad company had to pay a commission to the concern it borrowed the money from, and that is that entry as I understand it.

Mr. Marble: Perhaps you can answer it, Mr. Johnson.

Commissioner Harlan: Mr. Johnson, give us the explanation.

Mr. Johnson: The Louisiana & Pine Bluff Railroad borrowed some $260,000 from the Mercantile Trust Company in this city,

paying them six per cent for the money, and a four per cent commission.

Mr. Marble: What was the necessity to borrow that to put up a plant worth less than $200,000 without the discounts and commissions, when its capital stock was $300,000 and it was all
5366 paid up.

Mr. Johnson: They needed the money to buy equipment, construct tracks, buy rails, and pay for labor.

Mr. Marble: Did that $260,000 figure in this item of $328,000 total cost of plant?

Mr. Johnson: I am not familiar with the balance of the accounting; I just wanted to explain that one thing.

Mr. Marble: If they had to borrow that money, what became of the $300,000 received for the capital stock?

Mr. Johnson: They have got all the property they ever had.

Mr. Marble: Is it your judgment that this figure in this annual report of the total cost is in error, to June 30th, 1910?

Mr. Johnson: I know we have got in the neighborhood of $500,000 invested in property at Huttig, the Louisiana & Pine Bluff Railway have got that much money invested in its property at exactly what it cost it.

Mr. Marble: I think the Commission ought to have some explanation of this balance sheet.

Mr. Scott: If you will permit me, I think I can clear the whole matter up in a moment.

Commissioner Harlan: Just a moment. Mr. Johnson, you
5367 say you know you have invested there half a million dollars. In making that statement you include the lines that have been removed, do you not?

Mr. Johnson: If they were charged to the road originally.

Commissioner Harlan: As a part of your investment?

Mr. Johnson: Yes, sir.

Commissioner Harlan: Mr. Scott wishes to make some explanation.

Mr. Scott: The attorney has referred to cost of road and equipment. Now in addition to that amount, if he will refer to our material account he will find $128,296 carried as an asset. That represents part of our property account in addition to the $328,000 that you are looking at there. That is the cost of road and equipment, and in addition to that we enter this equipment account, this steel rail account, which wants to be added, the balance sheet shows cost of road $136,428.36 and equipment $191,767.87.

Commissioner Harlan: Those two items added together make $328,196.23, which is the figure Mr. Marble has used.

Mr. Scott: Yes, sir. We have on hand cash $3,109.31; traffic and car service balances $14.10; miscellaneous accounts receivable $3,692.17; materials and supplies $128,296.04.

5368 Mr. Marble: Can you itemize that item of materials and supplies?

Mr. Scott: Steel rails and fastenings.

Mr. Marble: Steel rails and fastenings.

Mr. Scott: And angle bars.

Mr. Marble: How many miles would that be?

Mr. Scott: About 70 miles, something like that; 70 or 75.

Mr. Marble: And that is loaned to the Huttig Logging Company.

Mr. Scott: They use it in getting our logs.

Mr. Marble: Do they pay anything for the use of it?

Mr. Scott: No.

Mr. Marble: Do they pay any interest on that investment?

Mr. Scott: No.

Mr. Marble: Does the Huttig Logging Company ever figure as a shipper over your line, paying you anything for service you render them?

Mr. Scott: We handle their employés free of charge in and out on our logging trains. Where they ride on the passenger trains they pay fare.

Mr. Marble: Does it ever pay you anything, or does it appear on your books in any way as a customer of yours?

5369 Mr. Scott: The Huttig Logging Company?

Mr. Marble: Yes.

Mr. Scott: Yes, sir, the same as any other customer; we do quite a business with them.

Mr. Marble: How much during the course of a year?

Mr. Scott: I will correct that statement. Cut that out. The only expenses in which the Huttig Logging Company appear on our books is where they are called on in a wreck or something of that kind to go out and perform some little service.

Mr. Marble: And that is an infinitesimal amount, I suppose?

Mr. Scott: Yes, sir, a small amount.

Mr. Marble: Would it amount to $1,000 a year.

Mr. Scott: It would depend what the service was.

Mr. Marble: Why are you so good to the Huttig Lumber Company as to loan it this $128,000 of material and carry its employés free, and without charging interest for any service?

Mr. Scott: The Huttig Logging Company is engaged in getting out the logs and under our contract with the saw mill, under the arrangement there, those logs are all handled in free. The logging company and the saw mill, you might say, are one and the same thing, so far as getting out this traffic.

Mr. Marble: You regard them as one and the same thing?

5370 Mr. Scott: We furnish as stated yesterday and today, the steel which the logging company uses and we furnish the equipment on which the logs are loaded and the logging company in return for that keeps up the repairs on the equipment, on the cars that are used in the service, and keeps up repairs on the engine used in that service.

Mr. Marble: The engines and cars which it operates on the spurs?

Mr. Scott: On all the cars and engines it operates itself. We extend or would make the same arrangement with any other logging company that wanted to operate there in getting out tonnage to be manufactured on our railroad.

Mr. Marble: Mr. Johnson is here, and as this matter of free trans-

portation of employés has been mentioned, I should like to make reference to the contract of November 28th, 1905, between the El Dorado & Bastrop Railway Company, Farmerville & Southern Railroad Company, Little Rock & Monroe Railway Company, and St. Louis, Iron Mountain & Southern Railway Company, first parties, and the Union Saw Mill Company, second party, granting the mill company the privilege of running five vehicles, either railway, velocipedes, handcars, motor cars or speeders (so-called) for the transportation of the agents, officers or employés of the mill com-
5371 pany, its contractors, sub-contractors and their employés to and from the logging camps of the mill company located adjacent to the lines of said El Dorado & Bastrop Railway Company, Farmerville & Southern Railroad Company, and Little Rock & Monroe Railway Company, without compensation. That is a fair statement of that contract, is it not?

Mr. Johnson: The contract shows for itself; it is on file. All contracts are on file.

Mr. Marble: This contract is——

Commissioner Harlan: To whom does this motor car belong?

Mr. Johnson: I do not believe we have one in the service any more; it did belong to the Louisiana & Pine Bluff.

Commissioner Harlan: And operated over your lines?

Mr. Johnson: Yes, sir, just going out to the camps.

Commissioner Harlan: It was used by the officers of the lumber company?

Mr. Johnson: I think so. The lumber company and the railroad company; it has to move under train orders the same as any other train.

Mr. Cowan: Listening to your testimony I seem to gather that the operations and handling of your equipment, and by your
5372 I mean the railroad company, is done by the logging company. Is that right?

Mr. Scott: They handle the equipment out of the logging spurs where they take the cars out and load them and give them back to the railroad loaded and assemble the train.

Mr. Cowan: And bring them to where?

Mr. Scott: To a junction point with the Louisiana & Pine Bluff Railway, and assemble the train there. The Louisiana & Pine Bluff picks up the train and brings it to the mill and takes the empty cars to that point.

Mr. Cowan: The Louisiana & Pine Bluff Railway does that which you have just mentioned?

Mr. Scott: Yes, sir.

Mr. Cowan: What proportion of this equipment is used by the logging company and what proportion is used by the Pine Bluff Railroad?

Mr. Scott: Well, the rolling stock and cars are used by both. The same car they take out and load with the logs naturally we bring in.

Mr. Cowan: Do the same engines come on in or stay out here?

Mr. Scott: They have six engines that we furnished them.

Mr. Cowan: How many engines does the Pine Bluff Rail-
5373 road use?

Mr. Scott: Six.

Mr. Cowan: So they are equally divided there?

Mr. Scott: Yes.

Mr. Cowan: And you say that the logging company is essentially the lumber company; you said that several times.

Commissioner Harlan: Yes, he has said that several times.

Mr. Cowan: I want to know if the lumber company is not, as a matter of fact, operating therefore one-half of the equipment of the railroad company for its own purpose?

Mr. Scott: The Huttig Logging Company is operating one-half of the locomotives in getting out these logs. The lumber company owns the stock of the Huttig Logging Company.

Mr. Cowan: So the railroad company is to that extent operated by the lumber company?

Mr. Scott: No, the railroad is not operated at all; the railroad only operates from the point where the cars are set out loaded to it by the lumber company or logging company.

Mr Cowan: Well, that is a matter of argument; perhaps the argument is on the other side. You have a charter or something. Have you it here?

Mr. Scott: Yes, sir.

5374 Mr. Cowan: I wish you would produce a copy of that charter for the record. Your charter does not provide anything of the sort.

Mr. Scott: I do not understand the question.

Mr. Cowan: For operation of that character—well, the charter will show for itself.

Mr. Walter: And the laws of Arkansas might as well be annexed to it.

Mr. Cowan: Oh, yes. Does the charter provide for the building of this railroad up to these different places or just the 20 miles.

Mr. Scott: I will file a copy of the charter. It is a very extensive affair, and as Mr. Walter says, the laws of Arkansas provide.

Commissioner Harlan: That has been gone over fully. It appears the charter in terms provides for construction of 20 miles, and they have been operating 27 miles, and they have built some and torn it up.

Mr. Walter: The laws of Arkansas are to be available for the purposes of this and all other hearings.

Mr. Cowan: Yes.

How long have you been acquainted with the matter per-
5375 taining to the division of the rates, how many years have you personally been acquainted with them?

Mr. Scott: The division of rates with the Louisiana & Pine Bluff?

Mr. Cowan: And the Iron Mountain.

Mr. Scott: Ever since the organization of the road.

Mr. Cowan: Is it not a fact that before you constructed this railroad or rather before it was incorporated, that you were receiving divisions or some sort of compensation from the Iron Mountain?

Mr. Scott: Who was receiving it?
Mr. Cowan: What?
Mr. Scott: Who was receiving it?

(Question read.)

Mr. Cowan: I mean by you in that sense the investing interest that owned the plant.
Mr. Scott: No.
Mr. Cowan: Whether you call it railroad or saw mill or whatever you call it, the Iron Mountain was paying something out of the rate to somebody when it got the lumber.
Mr. Scott: The Iron Mountain was paying the same division of rate to the Little Rock & Monroe that it paid to the Louis-
5376 iana & Pine Bluff after it was incorporated and put in operation, and the rate is the same now as it was when they paid it to the Little Rock & Monroe before the sale.
Mr. Cowan: Has there ever been a time since the saw mill has been operating that the interests controlling it did not receive out of the rate paid the Iron Mountain a compensation substantially the same as you get today?
Mr. Scott: The situation is this, the saw mill company owned the stock of the Little Rock & Monroe Railway Company; it owned the stock of the Louisiana & Pine Bluff, and both of those railroads received the division of the freight rate.
Commissioner Harlan: There was no mill at Hutig before the Little Rock & Monroe Railroad was commenced; it was not a case of a mill that had a railroad which was unincorporated and then incorporated.
Mr. Walter: That is right.
Mr. Cowan: I got the idea somehow that the logs were brought into this mill and did not come in over either one of these railroads that are now in existence.
Mr. Scott: No other way except to come in over one or the other of the railroads.
Commissioner Harlan: I understand the construction of
5377 the mill and the railroad were at the same time.
Mr. Marble: I think it is a fact that the mill received divisions from the time the operation commenced, and the Little Rock & Monroe Company's divisions were immediately and without any lapse of time succeeded by the divisions of the Louisiana & Pine Bluff.
Mr. Scott: That is correct.
Mr. Cowan: I understand that there is a saw mill of the Wisconsin Lumber Company located on the tracks of the Louisiana & Pine Bluffs Railway?
Mr. Scott: Yes, sir.
Mr. Cowan: If that saw mill were located upon the Iron Mountain, then they would have to pay the freight rate on the logs to the mill?
Mr. Walter: Who would have to pay?
Mr. Cowan: The Wisconsin Lumber Company.
Mr. Scott: Yes, sir, unless they gave us the outbound tonnage.

Mr. Cowan: If they were located on the Iron Mountain they could not give it to you because it would not be outbound on your road.

Mr. Scott: We would not perform service free of charge.

5378 Mr. Cowan: The fact of their being located on your line therefore makes the Iron Mountain pay the cost of logging the Wisconsin Lumber Company's business.

Mr. Scott: No.

Mr. Cowan: Is not that true?

Mr. Scott: It does not have anything to do with the logging or the Wisconsin's business.

Mr. Cowan: Is not that the result?

Mr. Scott: I cannot see it that way.

Mr. Cowan: Do you know the reason it located on your line instead of the Iron Mountain?

Mr. Scott: It located on our line because our equipment and facilities were adapted to give them better service than they could get otherwise. Our road is specially equipped to handle that kind of business.

Mr. Marble: Do you have charge of the routing of the outbound shipments of lumber from Huttig?

Mr. Scott: No, sir.

Mr. Marble: Who does have that?

Mr. Scott: The shipments are routed by the people from whom we get orders—or by the milling interests; I do not know who it is routed by. The shipments are routed before they come to

5379 Huttig.

Commissioner Harlan: Is that true of the hardwood shipments?

Mr. Scott: I suppose so. We never route any unless there happened to be no routing furnished and then we put routing on them. We have handled very little hardwood up to date. Those shipments, as I say, are just commencing.

Mr. Marble: If I might ask Mr. Johnson a question, it will save some time. Did you have charge of the negotiations with the Wisconsin Lumber Company to get them to settle at Huttig?

Mr. Johnson: Yes, sir.

Mr. Marble: Is it a condition of the contract for the sale of the logs to them that the product of those logs shall be routed over the Louisiana & Pine Bluff Railway, and under this contract with the Iron Mountain?

Mr. Johnson: All the tonnage of the Wisconsin Lumber Company is tied to the rails of the Louisiana & Pine Bluff Railway Company.

Mr. Marble: And under this contract with the Iron Mountain, so that the Louisiana & Pine Bluff will get divisions?

Mr. Johnson: Yes.

5380 Mr. Marble: Do you know why the Wisconsin Lumber Company went to Huttig to locate on the tracks of the Louisiana & Pine Bluff instead of going on the tracks of the Iron Mountain at Dollar Junction?

Mr. Johnson: I suppose the principal reason is because Huttig is the most practical place in that part of the country to operate a

business like they have established. There are good schools and churches and libraries and water works and facilities are better there than anywhere else in that locality.

Commissioner Harlan: The town of Huttig was built after you built your mill.

Mr. Johnson: We built the town as well as the mill.

Commissioner Harlan: Why did you build at Huttig instead of on the rails of the Iron Mountain?

Mr. Johnson: We originally built it on the rails of the Little Rock & Monroe.

Commissioner Harlan: Well, those two enterprises went along together.

Mr. Johnson: We located the town of Huttig at that point on account of the supply of water. You have to have a supply of water for a big plant like that for the storage of logs, and so forth,
5381 and you have to locate the plant where you can get a supply of water, where you can build your plant. We have 60 or 70 acres of water for the storage of logs. That is the reason it is located where it is.

Commissioner Harlan: Did you make that pond?

Mr. Johnson: Yes, sir.

Mr. Coleman: Is the Wisconsin Lumber Company an International Harvester concern?

Mr. Walter: It so appears in this record.

Mr. Coleman: I want to know of this particular one.

Mr. Johnson: I think they are a subsidiary corporation of the International Harvester Company.

Mr. Coleman: Do they get back any of the division on hardwood that the Pine Bluff Road gets?

Mr. Johnson: I do not think they do.

Mr. Coleman: Do you know?

Mr. Johnson: I know they do not.

Mr. Cowan: Well, they used to, didn't they, a long time ago before the rebate law?

Mr. Johnson: The Wisconsin Lumber Company was not there. It has only been there a short time.

Commissioner Harlan: It appears from the testimony of
5382-3 both witnesses that that mill is just getting into operation and there have been very few shipments from it up to date.

Mr. Johnson: I will state this, however, that the Wisconsin Lumber Company never will get any part of the divisions on the hardwood lumber that moves from Huttig.

Mr. Coleman: I had no suspicion about it, but just wanted to know.

Mr. Cowan: I wanted to ask Mr. Scott another question. You have testified at length about what has been done by your railroad corporation and by the logging company and by the lumber company. Do you receive your directions from some head of the institution, or all the institutions?

Mr. Scott: I have local charge of the business there.

Mr. Cowan: Well, there is somebody above you that has the right to direct what you do, to direct the policy of all these companies?

Mr. Scott: Yes, sir, the Board of Directors have that right.

Mr. Cowan: And they are the same practically in each one of the corporations I have named.

Mr. Scott: They are practically the same, yes, sir.

Mr. Cowan: So therefore you cannot have any individual
5384 volition with respect to the railroad company that is not subject to the direction of the lumber company?

Mr. Walter: That is all a matter of argument and is consuming time.

Mr. Cowan: It is a very good argument.

Mr. Scott: We conduct a railroad business according to railroad rules and regulations.

Commissioner Harlan: The point which counsel wishes to bring out is this, whether there is not one underlying policy that controls these three investments. I assume that is the case.

Mr. Scott: The interest is practically the same.

Commissioner Harlan: And the policy that controls them is one general policy, to get the best out of that business?

Mr. Scott: To get the best results out of the business.

Mr. Cowan: One other question I wanted to point out in regard to the per ton mile earnings. It is figured on the annual report at 8.9 mills per ton per mile. I want to call attention to the fact and ask if it is not true, that the longest distance haul on the logs is 35 miles. I believe you said that was the maximum haul.

Mr. Scott: Well, approximately 35 miles.

5385 Mr. Cowan: Approximately?

Mr. Scott: About that, yes, sir.

Mr. Cowan: The average distance 25 miles, I believe you said?

Mr. Scott: For that period, yes, sir.

Mr. Cowan: At the rate of four cents per 100 pounds division, that would be 80 cents a ton, and at 35 miles, your longest distance, it would give you 23 mills, estimating the lumber as being the tonnage——

Commissioner Harlan: We will not stop on ton mileage figures now.

Mr. Scott: The reports are all figured out according to the rules of the Commission.

Mr. Walter: You operate a passenger train from Dollar Junction to Huttig?

Mr. Scott: Yes, sir.

Mr. Walter: Now I want to ask you about the facilities for passenger traffic between Huttig and Iron Mountain points.

Mr. Scott: Well, the facilities are very much in favor of our road.

Mr. Walter: Just illustrate, coming southbound from El Dorado or northbound from Collinston?

5386 Mr. Scott: The Iron Mountain train north bound starts from Collinston and runs to Gurdon. The only way you can make connection with that train or any close connection is to take our train from Huttig and catch that train at Dollar Junction. Southbound the Iron Mountain frequently does not make connection and it is a good deal nearer and a better place to stop. The people

patronize our road to go over to Huttig, and going beyond there we handle practically all the business between Huttig and Iron Mountain points up to the Junction of the Iron Mountain.

Mr. Walter: It is the only convenient and practical route from Huttig, is it not?

Mr. Scott: Yes, sir.

Mr. Walter: How many round trips a day do you make from Huttig?

Mr. Scott: We make two round trips.

Mr. Walter: Four trips daily over the road?

Mr. Scott: Yes.

Mr. Walter: How many passengers did you haul during the year ending June 30th, 1910?

Commissioner Harlan: That is all shown in the exhibits.

Mr. Scott: Something like 5,000 passengers approxi-
5387 mately.

Mr. Walter: Let me ask if the Louisiana & Pine Bluff with its engines does not perform all of the service either on the logs or on the finished product from the time they are taken off the spurs and brought up to the line of the Louisiana & Pine Bluff?

Mr. Scott: Yes, sir.

Mr. Walter: And for all the cars used in that logging service and all the engines used in that service are or are not they repaired by the logging company?

Mr. Scott: Yes, sir, they are all taken care of by the logging company.

Mr. Walter: About how many cars daily are delivered at Dollar Junction for transportation by the Iron Mountain?

Mr. Scott: An average of about 15.

Commissioner Harlan: You mean loaded cars?

Mr. Scott: Loaded cars, finished product of lumber.

Mr. Walter: And you take the empty cars back down to the mill?

Mr. Scott: Yes, sir, and pay per diem on them while we have them.

Mr. Walter: Those cars when delivered at Dollar Junction are or are not in train formation ready for the Iron Mountain to
5388 take hold of them and take them out?

Mr. Scott: Already assembled to go right out.

Mr. Walter: For all the service rendered by the Louisiana & Pine Bluff in hauling the logs to the mill and the lumber out, it is paid for out of the joint rates?

Mr. Scott: Yes, sir, out of the division of the rates which we get.

Mr. Walter: Have you anywhere in your testimony indicated the number of shippers or their names other than the Wisconsin Lumber Company and the Union Saw Mill Company?

Commissioner Harlan: The number is shown on the statement.

Mr. Scott: I have filed an exhibit.

Commissioner Harlan: It is not important to have the names. The number of outside shippers is shown.

Mr. Walter: And their tonnage is shown?

Commissioner Harlan: The tonnage is shown.

Mr. Cowan: I would like to ask the witness if he knows whether the books of the lumber company show any expenses for rail operation, logging operation?

Mr. Scott: The lumber company does not handle the logging operations; it is done through the Huttig Logging Company.

Commissioner Harlan: You mean by that its books do not
5389 show any expense for logging operations?

Mr. Scott: Well, the details of the account are carried by the Huttig Logging Company. The saw mill company pays the logging company so much per thousand feet on monthly settlement. It shows what the logging company does.

Mr. Cowan: There are no entries for rail operation or maintenance of equipment or anything of that nature——

Mr. Scott: That is all taken care of by the Huttig Logging Company.

Mr. Walter: The Huttig Logging Company pays for all the expenses which it has to go to to get these logs from the tree up to your line?

Mr. Scott: Yes, sir, and the saw mill pays it so much per thousand feet for that service.

Mr. Cowan: Can we not have a statement of the operation and expenses of the logging company, so as to see what that is compared with the expenses charged to this railroad company?

Commissioner Harlan: Is the logging company run at a yearly loss?

Mr. Scott: I think they have been making some money.

Commissioner Harlan: Have there been years when there was a deficit?

5390 Mr. Scott: Yes, sir, there always has been until the last two years.

Commissioner Harlan: The deficit was made good by the lumber company?

Mr. Scott: Well, the lumber company finally had to take the stock.

Commissioner Harlan: But the cash deficit of the logging company as a corporation was made good by the Union Saw Mill Company, was it not? When they needed cash they got it from that source.

Mr. Scott: I think possibly they borrowed the money themselves; I am not sure about that.

Commissioner Harlan: Will you find out about that?

Mr. Scott: Yes, sir; at times the Union Saw Mill Company has advanced it money.

Commissioner Harlan: I think that covers the point.

Mr. Gaughan: Formerly this logging company was a distinct corporation and that the Union Saw Mill Company had nothing to do with. The Union Saw Mill Company had to take up the stock.

Commissioner Harlan: I think it must appear that when the logging company needs cash it obtains it from the Union Saw
5391 Mill Company.

Mr. Gaughan: I assume so.

Mr. Coleman: When was the extension or spur to Lake Grand Marie built?

Mr. Scott: I think probably about 1905.

Mr. Coleman: Do you remember what charge was made against the railroad operation for building that?

Mr. Scott: I do not.

Mr. Coleman: Was that much like the other spurs which you had built off the main line?

Mr. Scott: No, this line was built out through a district there that at certain times the water gets 20 feet over the track——

Commissioner Harlan: I think that has all been covered.

Mr. Coleman: I just want to ask the witness if he did not testify that the spur over the Grand Marie you never considered as incorporated. You made that statement, I believe.

Mr. Scott: We took the track up.

Mr. Coleman: You made that statement yesterday, that you never considered it incorporated.

Commissioner Harlan: He made it this morning.

Mr. Scott: That might be a legal question. I would not say one way or the other.

5392 Mr. Coleman: I wanted to ask you what was there about the spur to Grand Marie which made you think it was not incorporated, and that the others were.

Mr. Scott: The spur was just like I have stated and explained. It was built down there to get traffic out of the river to be manufactured on our line, and the traffic played out and we pulled it up. It was an industry track put down there to get that business.

Mr. Coleman: Do you mean to say you charge to the operating expenses of a railroad for the construction of a spur which you never considered belonged to the railroad?

Mr. Scott: We considered it belonged to the railroad company of course. We paid for it, and it ought to be ours.

Mr. Coleman: Have you any inbound or outbound joint rates with the Iron Mountain?

Mr. Scott: Yes, sir.

Mr. Coleman: What have you got it on?

Mr. Scott: We have an inbound joint rate on coal.

Mr. Coleman: What else, merchandise?

Mr. Scott: Nothing else.

Mr. Coleman: Stores or merchandise?

Mr. Scott: No. The Iron Mountain like to handle that
5393 themselves.

(Witness excused.)

(The map previously referred to of the Louisiana & Pine Bluff was marked Louisiana & Pine Bluff Exhibit No. 8, Witness Scott, received in evidence January 27, 1911, and is attached hereto.)

Commissioner Harlan: We will call now the Chairman of the Arkansas State Commission.

5394 R. P. ALLEN was called as a witness, and testified as follows:

Commissioner Harlan: Will you give your full name to the reporter.

Commissioner Allen: R. P. Allen.

Commissioner Harlan: Where do you reside?

Commissioner Allen: Van Buren.

Commissioner Harlan: What is your business or profession?

Commissioner Allen: I am a member of the Railroad Commission.

Commissioner Harlan: Of the State of Arkansas?

Commissioner Allen: Yes.

Commissioner Harlan: How long have you been a member of that Commission?

Commissioner Allen: Four years.

Commissioner Harlan: Prior to that date what was your business or profession?

Commissioner Allen: I was a merchant.

Commissioner Harlan: At what point?

Commissioner Allen: At Van Buren.

Commissioner Harlan: In what line?

Commissioner Allen: Well, general merchandise.

5395 Commissioner Harlan: And you had been a merchant for how long?

Commissioner Allen: 20 years.

Commissioner Harlan: Were you a considerable shipper over the lines of railroads?

Commissioner Allen: Well, for a small country merchant, I was. I was in the cotton business, and handled cotton and fruit in addition to other business.

Commissioner Harlan: Had you made any special investigation of railway matters, rates and practices of railroads until you went on the Commission?

Commissioner Allen: No, sir, I had not.

Commissioner Harlan: Ever since you became Commissioner have you looked into the matter of tap lines in your state?

Commissioner Allen: Well, I could not say that I have given it very close attention.

Commissioner Harlan: Your Commission has not had to give any special attention to tap line matters?

Commissioner Allen: Of course we have given attention to rates; we have the same jurisdiction over tap lines as over trunk lines in the state.

5396 Commissioner Harlan: I understood you were here in fulfillment of the desire of your Commission to express some general views on this question.

Commissioner Allen: Yes.

Commissioner Harlan: If you will, state in your own way what you have to say on that subject.

Commissioner Allen: The laws of Arkansas governing railroads are very similar to those of Louisiana and the powers of the Commission, therefore, as I see them, are very similar. It is the duty of the Railroad Commission of Arkansas to make rates and enforce the

rates prescribed by the Commission and prevent discrimination and to require the railroads to furnish equipment. They have supervision over the physical construction or physical condition of tracks and bridges; they have the power to cause them to construct depots. They have jurisdiction over the equipment, the sort and kind of equipment they shall use, and they also have the power and are required by the law to take up matters referring to interstate commerce with the Interstate Commerce Commission.

5397 The interest that I have or that the Commission of the State has is this: when this question first came up of the cancellation of these joint rates, we were appealed to by a number of the officials of the short lines for a hearing or conference, rather. They wanted to put the proposition up to the Commission and see what their opinion was or whether they were willing or not to sign a protest to the Interstate Commerce Commission, or whether or not it would be a detriment to the state at large if this contract was cancelled. That meeting was granted, and it was an open public meeting and was attended by the entire Commission and the Governor of the state and the Attorney General, I believe, was invited, and the Commission's chief counsel. And after going into the matter thoroughly the Commission decided as a whole that if the short lines or tap lines, as they are called, chartered under the laws of the State of Arkansas, complied with all the rules and regulations of both the State and the Interstate Commissions and made their annual reports, that they were entitled to the same consideration that a trunk line was, and from our viewpoint, that they were common carriers.

5398 Commissioner Harlan: Did your deliberations go any farther and did you go beyond the law point, which I take to be the point which you have just stated, and consider the effect of these allowances on the lumber trade generally?

Commissioner Allen: Yes, sir; we thought it would have either one of two effects. If cancelled, it would either raise the rates in Arkansas or that it would discourage or retard the development or building of these short lines. If that was true we considered it would be very disastrous to the State of Arkansas, as we need more railroads, and the Commission as a Commission has always encouraged the building of railroads. Our experience has been that a great deal of the country has been developed and opened up, and both small farms and towns built along these lines, and that ultimately they become a part of the trunk lines. We do not believe that the trunk lines would build these little roads if they had to operate them, because experience teaches us that all these roads have to operate at a loss when they are first built, and that they could be operated as private roads at a much less expense than a trunk line could, for the reason that they employ their men by the month at a much lower salary than organized labor requires on trunk lines, and on many of them the conductor acts as superintendent and road master,

5399 and he is pretty nearly the whole thing except general manager on those short lines. If they become a part of the main lines or trunk lines under the laws of our state they then become a

part of the main line and single line rates apply and the employees would necessarily have to be paid for a full trip or a day if the road was only twenty miles long or fifteen miles long. I believe the contract with engineers and firemen is that they pay them for 100 miles or about $150 a month. Of course other employees, brakemen and firemen, have their compensation in the same proportion.

Another thing we know from practical experience that a number of these short roads, or lumber roads, or tap lines, have been built recently and have developed that part of the country wonderfully in the way of increasing population; they have built up towns, opened up farms, and have by increasing the tax valuation of the state, increased the revenues of the state. Many of those roads in our opinion would not have been built by any trunk line. Some of them now are almost on a paying basis, according to their reports.

At the present time the Railroad Commission of Arkansas is working under a Court Tariff. We do not prescribe the rates on
5400 the trunk lines, as the trunk lines have a temporary injunction against both our freight and passenger rates. The railroads immediately after they got the injunction put in a tariff of their own, which was absolutely prohibitive, in the opinion of the Commission, and we went before the Federal court and asked them to either require the railroad companies to put in a reasonable tariff to apply during this litigation or dissolve the injunction——

Commissioner Harlan: We know the general details of that litigation. What relation has it to the tap line question?

Commissioner Allen: It is simply this, I want to show this that when the Commission had the power to make rates that we invariably took care of the short tap lines by giving them a higher local rate than we did the trunk lines, although we have a distance tariff rate. We did that to encourage the short lines, because we believed that they developed the country.

Commissioner Harlan: What service do you understand the short lines perform on lumber, for which you allow them a higher local rate than you would an ordinary carrier?

Commissioner Allen: I do not know that it affects lumber at all. Most of our lumber is moved on a blanket rate, it is inter-
5401 state. The intrastate movement is very small and we have——

Commissioner Harlan: So you have not fixed any local rates on lumber?

Commissioner Allen: Yes, we have a local rate which applies to points where the lumber is consumed, a rate per hundred pounds.

Commissioner Harlan: Is that a distance tariff?

Commissioner Allen: Yes.

Commissioner Harlan: Then you have not fixed any special rates on lumber for these small lines?

Commissioner Allen: Yes, we have what we call a rough material rate, which applies to logs and lumber.

Commissioner Harlan: What service, considered from the standpoint of interstate shipments do you understand the tap lines perform on a shipment of lumber?

Commissioner Allen: They would not apply the rough material

rate, because that only applies to interstate shipments. We have a milling in transit rate where it is a one line haul.

Commissioner Harlan: I am not talking now about Arkansas rates, but you have looked into the general question, as I
5402 understand, so I want to know from you, what service do you understand the tap line performs on interstate shipments of manufactured lumber.

Commissioner Allen: I understand they get a division of the rate.

Commissioner Harlan: That is quite true, but what service do they perform for that division, what is their haul?

Commissioner Allen: They bring it off of their line to the main line.

Commissioner Harlan: You mean from the mill to the main line?

Commissioner Allen: Well, if the mill is near the main line I think that the trunk line would go in there and would get that lumber at the mill, and they would not perform any service. It would be loaded at the mill and the trunk line would perform that service.

Commissioner Harlan: That is ordinarily done by lines with respect to merchandise?

Commissioner Allen: Yes.

Commissioner Harlan: They go a mile or two or three miles sometimes without charge?

Commissioner Allen: Yes, sir; there is no charge for that
5403 service, as I understand it.

Commissioner Harlan: Is that your understanding of the interstate situation with respect to shipments of lumber?

Commissioner Allen: Yes, sir.

Commissioner Harlan: Have you any further suggestions to make?

Commissioner Allen: I do not know that I have.

Commissioner Harlan: Are there any questions to be asked.

Mr. Gaughan: Where the mill is located near the point of connection, the short line, as a rule, brings the logs in from the forest to the mill?

Commissioner Allen: To the mill, and the trunk line of course takes it at the mill.

Mr. Gaughan: Don't you consider that the bringing in of the logs from the forest to the mill where it is milled into lumber is a service rendered in the interstate shipment of lumber where it goes out to interstate points?

Commissioner Allen: It certainly is; yes, sir.

Mr. Garwood: Mr. Commissioner, may I ask if in order to obtain a railroad charter in Arkansas, application must be made to a charter board?

Mr. Allen: Yes.

5404 Mr. Garwood: Must there be an approval by the Attorney General, or something of that kind?

Commissioner Allen: By the board, as I understand it, which is composed of the Governor, Attorney General and Secretary of State, and the Commissioner of Agriculture and Mines.

Mr. Garwood: In other words, the issuance of a railroad charter in Arkansas is not a perfunctory matter, following upon the mere filing of a charter?

Commissioner Allen: No.

Mr. Garwood: It is passed upon by a board.

Commissioner Allen: By this board.

Mr. Garwood: Do I understand that in order to encourage the construction of these short line roads, you have authority under the Arkansas law, and you exercise that authority, to give them rates in excess of the usual generally applicable mileage tariff?

Commissioner Allen: Yes, sir; we do.

Mr. Garwood: And to that extent, do you permit these rates above the mileage tariff rate?

Commissioner Allen: Well, that depends on the showing of the road, the business that is done on the road, and has
5405 varied from 125 per cent to 150 per cent of the regular tariff.

Commissioner Harlan: But you have not done that on the lumber rate, as I understand?

Commissioner Allen: No, that is the general tariff; not on the——

Mr. Garwood: You say there is but little intrastate shipment of lumber, and that the greater part is interstate in its character?

Commissioner Allen: Yes, sir.

Mr. Garwood: Is Arkansas a large producer of staves and hard wood products?

Commissioner Allen: Yes, sir.

Mr. Garwood: What relative proportion of such products, particularly staves, does Arkansas produce, compared to the other hard wood producing states?

Commissioner Allen: I really could not say what the percentage is. I know Arkansas is a very large producer of staves.

Mr. Garwood: Is it not considered perhaps the greatest producer of staves and stave bolts?

Commissioner Harlan: That seems to be the general un-
5406 derstanding.

Commissioner Allen: I just want to modify my statement that your Honor asked on, with reference to the lumber. That advance does apply to lumber and everything else in the tariff as an intrastate business. For instance, if there was a carload of lumber moving over their track to a local point that took the flat local rate, they would get 125 or 150 per cent of the tariff, as the case might be.

Commissioner Harlan: But you have not so applied your authority on a two-line movement?

Commissioner Allen: No.

Commissioner Harlan: And the rough lumber rate you referred to a little while ago is a one-line movement: it is where the logs come into the mill?

Commissionenr Allen: The rough material rate only applies on one line, but if a carload of lumber were to move off a tap line to the city of Little Rock, that tap line would be entitled to its local, which would be 125 per cent of the tap line rate as one-line movement.

Mr. Garwood: In that connection I have not exactly caught from the testimony of witnesses here how your two-line intrastate rates are made. Would you kindly explain that?

5407 Commissioner Allen: Well, on what?

Mr. Garwood: Well, say on lumber.

Commissioner Allen: Take the mileage on both lines and deduct ten per cent.

Mr. Garwood: Coming back to the hard wood, I will ask you if you know if the production of hard wood is not as a rule upon a smaller scale than the production of yellow pine products?

Commissioner Allen: Oh, yes; very much.

Mr. Garwood: In other words, it is more largely from small landed interests, from small tracts?

Commissioner Allen: Yes.

Mr. Garwood: It is owned more often by farmers and local residents; is that a fact?

Commissioner Allen: I was going to say this, so far as my knowledge goes, most of the stave operators or shippers are men who are not connected with railroads at all; they are private citizens and corporations; that is my experience.

Mr. Garwood: I want to ask you whether or not it is a fact that the construction of these smaller roads enables this hard wood
5408 industry to get to market much more conveniently and in fact has brought on the market a great deal of that product which otherwise was inaccessible to the commercial world.

Commissioner Allen: It certainly has.

Commissioner Harlan: Is it not your understanding that the stave business and hard wood business generally is ordinarily merely a by-product of extensive yellow pine lumber operation?

Commissioner Allen: Well, I do not know that I understand your proposition.

Commissioner Harlan: Does not the hard wood to a large degree come from lands that are being lumbered by the yellow pine people?

Commissioner Allen: No, sir, I think not. We get most of our hard wood from the part of Arkansas where pine is very scarce.

Commissioner Harlan: I am now directing your attention to the tap lines, where tap lines are used and where they are in existence at all; is not the hard wood which comes over the tap line a by-product for the most part, of the lumber operations in the pine lands?

Commissioner Allen: Yes, sir, I would say they were.

5409 Commissioner Harlan: The hard wood mill is ordinarily owned by outside interests; is not that so?

Commissioner Allen: Yes, sir.

Commissioner Harlan: But for the most part the lumber that they use is from logs that come from the pine lands of people that also own the tap lines; is not that your experience in Arkansas?

Commissioner Allen: Well, that would be the case over these tap lines, because most of these tap lines are built through pine districts.

Mr. Garwood: It is also a fact, is it not, that these mills when they get in there on the tap lines have no connection with the pine lumber interests; that they not only buy the hard wood from the lumber lands, but they buy from all others within their reach?

Mr. Allen: Yes, sir.

Mr. Garwood: And the Commissioner uses the word "by-product." It is a by-product only in the sense that it is a coincident development with the lumber.

Commissioner Harlan: The record shows substantially the conditions which you indicate in your question.

Commissioner Allen: Yes.

5410 Mr. Garwood: From your knowledge of the railroad situation in Arkansas as a whole, I will ask you whether or not that state can reasonably expect any great amount of trunk line development in addition to that which you already have.

Commissioner Allen: I think not, sir.

Mr. Garwood: Then does it not follow that such additional mileage as Arkansas must have will come from the construction of short lines of the general character of those under investigation here?

Commissioner Allen: Unquestionably.

Mr. Garwood: It is for these reasons that the Railroad Commission of Arkansas has pursued the consistent policy of encouraging and assisting the development of the short lines?

Commissioner Allen: Yes, sir.

Mr. Garwood: Do your laws permit the Railroad Commission of Arkansas to make orders requiring additional equipment?

Commissioner Allen: They do.

Mr. Garwood: Do you upon complaint or upon your own motion make orders applicable to these short lines requiring additional equipment in such cases?

Commissioner Allen: We do. We require them to put on additional equipmpent.

5411 Commissioner Harlan: Do you recall such a case?

Commissioner Allen: Yes, sir. We have ordered on trains and special equipment on several of those logging roads.

Commissioner Harlan: Passenger trains and additional locomotives?

Commissioner Allen: Additional passenger service. We have ordered them to furnish equipment, freight cars for movements, and we have never ordered additional locomotives that I recollect. Where we have a complaint on any of those short lines to the effect that the passenger service is inadequate or the freight service, as the case may be, we cite them to appear before the Commission, and if in our opinion after the hearing——

Commissioner Harlan: I know what your general authority is, but my question was whether you recall specific instances where you have ordered locomotives. I understand you do not recall such cases.

Commissioner *Harlan:* Not on the locomotives; no.

Commissioner Harlan: You do recall cases where you have ordered a tap line, so-called, to purchase a passenger engine; do you recall such a case?

Commissioner Allen: I could not give the roads now——

5412 Commissioner Harlan: I do not ask for the roads, but whether you recall such a case.

Commissioner Allen: Yes, we have ordered passenger equipment.

Commissioner Harlan: Several cases?

Commissioner Allen: Yes, sir; two or three during my incumbency.

Commissioner Harlan: And they were tap lines, so-called?

Commissioner Allen: Yes, sir; independent lines.

Commissioner Harlan: Have you ordered tap lines to supply themselves with box cars in any case?

Commissioner Allen: I cannot say that we have.

Commissioner Harlan: Have you ordered them to supply themselves with flat cars or other form of open cars?

Commissioner Allen: No. We have ordered them to furnish cars, on a number of complaints, to the shippers; but of course if they get them from other lines, it was immaterial to the Commission. We required them to furnish cars for the movement of freight from their line and have required them to get better passenger facilities. We have required them to build depots and facilities of that kind.

Commissioner Harlan: For passengers?

5413 Commissioner Allen: Yes, sir.

Commissioner Harlan: Have you had a number of cases where you have ordered them to furnish cars to shippers?

Commissioner Allen: Well, we had a number in 1907 and 1908. Recently we have not had. We have had very little car shortage recently.

Commissioner Harlan: Those cases were predicated on the refusal of a tap line to furnish cars?

Commissioner Allen: No, they simply said they did not have the cars, as the main lines did. We had the same trouble with the main lines, and in fact a great deal more trouble with the main lines, because there was a shortage and congestion of freight. The tap lines have never refused to comply with any order, rule or regulation of the Commission that I remember of.

Commissioner Harlan: Have you ever ordered the regular lines, so-called, to furnish cars to tap lines or shippers on tap lines?

Commissioner Allen: No, sir.

Mr. Garwood: The main lines are usually glad to furnish the cars, when they have them, to the short lines, in order to get the tonnage?

5414 Commissioner Allen: Yes, sir.

Mr. Garwood: That is a universal practice everywhere?

Commissioner Allen: Yes, sir, it is in the state.

Mr. Garwood: You have authority also under the Commission law to inquire into the physical construction of railways, have you not, in order to see that it is brought up to a proper standard in order to discharge its duty to the public?

Commissioner Allen: Yes, sir.

Mr. Garwood: Do you exercise a general supervision over them in that way?

Commissioner Allen: We do.

Mr. Garwood: Is there any law in the State of Arkansas that prohibits or renders it illegal in any sense for a stockholder in a lumber company to be a stockholder in a railroad?

Commissioner Allen: No, sir.

Mr. Garwood: I would like to ask as to the undeveloped mining resources of Arkansas, if there are such.

Commissioner Allen: Yes, sir, there is a great part of the State of Arkansas——

Commissioner Harlan: That is very generally understood——

5415 Commissioner Allen: That is undeveloped and that has a wonderful amount of products such as zinc and coal and slate and boxite.

Mr. Garwood: In order to reach these there must be additional railroad development in the state?

Commissioner Allen: Yes, sir.

Mr. Garwood: I believe that is all.

Mr. Walter: Mr. Commissioner, would you consider it fair, just or reasonable to deny a man, a shipper, the right to a joint rate, or any other reasonable rate, solely because he bought the products that he mills or ships from somebody who was interested in a railroad?

Commissioner Allen: I do not.

Mr. Cowan: Commissioner Allen, briefly on what sort of system are your lumber rates made in the State of Arkansas?

Commissioner Allen: Well, we have a distance tariff rate in Arkansas on everything.

Mr. Cowan: Do you reach a maximum and then have a blanket rate above that?

Commissioner Allen: No, we have a distance tariff rate.

Mr. Cowan: And that grades up by what mileage generally?

5416 Commissioner Allen: About four hundred miles generally. It starts at five, ten, twenty, and the longer the distance it jumps ten miles at a time.

Mr. Cowan: So when you state you have a blanket system in Arkansas——

Commissioner Allen: No, I said that was interstate. I said the lumber moved out of Arkansas on a blanket rate.

Mr. Cowan: You had reference to the interstate?

Commissioner Allen: To the interstate, yes, sir.

Mr. Cowan: You have said that it was the desire of the Arkansas Commission to do something for the benefit of the tap line roads?

Commissioner Allen: Yes, sir.

Mr. Cowan: And I wondered what you have done with respect to the lumber rates in the State of Arkansas for shipments within that state, for the tap lines.

Commissioner Allen: We have not done anything for the lumber, for the reason that the tap lines have enjoyed divisions of the through rates that were satisfactory to them and to the trunk lines and consequently the Commission has taken no action in the matter. We felt that they were entitled to those divisions for the service performed on the raw material.

5417 Mr. Cowan: What division are you speaking of?

Commissioner Allen: The division between them and the trunk lines on interstate shipments.

Mr. Cowan: What about the divisions on state shipments?

Commissioner Harlan: He has explained they do not get any. On a two-line movement it is the distance tariff with ten per cent off.

Mr. Cowan: I understand that, but I am asking for these general statements.

Commissioner Allen: On a state shipment some of the roads get 125 per cent of our lumber rate and others get 133⅓ per cent, or did, under our old tariff, and others get 130 per cent; it just depends on the road, of the financial condition and the business done.

Mr. Cowan: That is under a general rule that applies to a two-line haul, without regard to whether it is a tap line, so-called, or two trunk lines.

Commissioner Allen: No, sir.

Commissioner Harlan: The rates you have last mentioned are rates for movements over single lines?

Commissioner Allen: Yes, sir.

5418 Mr. Cowan: It could not apply in the case of a tap line subject to tap line locals?

Commissioner Harlan: Unless it was a local movement.

Commissioner Allen: On its line. On a movement that the trunk lines get, they get 125 to 150 per cent, because it is a short line.

Mr. Cowan: I am asking what value that is to the tap line. Does it simply put a burden on the man who simply happens to have an independent mill on the tap line?

Commissioner Allen: It simply increases their revenue; that is all; we feel the tap lines ought to have a greater revenue because their haul is short and the shorter the haul the greater the expense, of course.

Mr. Cowan: Why have you not given the tap lines the division of the rates to local points in Arkansas?

Commissioner Allen: Because we have a distance tariff rate.

Mr. Cowan: You said a two-line haul was made up by deducting ten per cent?

Commissioner Allen: Yes.

Mr. Cowan: But you did not explain in that connection from what it is you deduct the ten per cent.

5419 Commissioner Allen: You would take the mileage on the two roads and then deduct ten per cent.

Commissioner Harlan: From the distance tariff?

Commissioner Allen: From the distance tariff, yes, sir.

Commissioner Harlan: Now, then, to follow up what Judge Cowan has in mind, I think, why have you not helped the tap lines on state movements by extending the junction rate to tap line points and giving them the division such as the tap lines are now getting on interstate shipments?

Commissioner Allen: Well, we have never been requested to. The arrangement with the tap lines has been, as far as we know, satisfactory, both to the people——

Commissioner Harlan: You are referring now to interstate shipments?

Commissioner Allen: Intrastate shipments.

Commissioner Harlan: In other words, as you understand it, the tap lines are content not to have the junction rate extended to points on their lines with respect to state shipments?

Commissioner Allen: I understand the tap lines have been satisfied with the rates given them by the Commission for local movements, and of course that was all we had any jurisdiction
5420 over.

Mr. Cowan: To pursue that question about the deduction of ten per cent, or to take an instance, I want to ship a carload of lumber from Texarkana, Arkansas to Hot Springs, Arkansas, and I ship it down on the Iron Mountain to the connection of the Rock Island, and then on the Rock Island. How would you find out what that rate would be, a shipment on the Iron Mountain from Texarkana to a junction point with the Rock Island and then over the Rock Island to Hot springs.

Commissioner Allen: If it moved over the Rock Island and Iron Mountain from Texarkana to Hot Springs the rate would be whatever that distance would be, with a differential, I think it is three cents, I think it is a three cent differential, provided that did not exceed the maximum. This is on a flat rate on lumber now that you refer to, is it?

Mr. Cowan: Yes, I am trying to get you to state to me, as representing the Arkansas Commission, how you make up a rate on the Iron Mountain from Texarkana to Hot Springs, if I want to move it over the Iron Mountain to a junction point with the Rock Island and thence to Hot Springs.

Commissioner Allen: You would take the whole mileage the whole distance; I do not know what the distance is.

5421 Mr. Cowan: Take the whole mileage?

Commissioner Allen: Take the whole mileage and add the differential, and I think it is three cents.

Mr. Cowan: A differential for what?

Commissioner Allen: For a two-line haul.

Mr. Cowan: And then do what?

Commissioner Allen: If it did not exceed the maximum, that would be the rate.

Mr. Cowan: Where does this deduction of ten per cent come in that you spoke of? You said that a two-line haul, you took the distance and deducted ten per cent. I am not questioning your statement as incorrect, but I simply do not understand it, and I give you this instance in order that you may work it out and show how it applies.

Commissioner Allen: I am not very familiar with the tariff because it is a Court tariff, a new tariff, but I think that is correct; that you take the mileage where there are two trunk lines who haul it, you take the total mileage and there is a differential. There are on many commodities, first and second class, and I think this was on lumber, and I think it is three or four cents. The differential is provided right at the bottom of the column.

5422 Mr. Cowan: The Texas Railroad Commission makes a differential higher for a two-line haul than it does for a one-line haul; that is, upon certain commodities.

Commissioner Allen: Yes.

Mr. Cowan: It has been stated in this case that a two-line haul in the State of Arkansas is cheaper than a one-line haul for the same distance; is that true?

Commissioner Allen: No.

Mr. Cowan: If I ship from Texarkana, Arkansas to Hot Springs by the Iron Mountain instead of the Rock Island, would that be cheaper?

Commissioner Allen: That would be cheaper, if it was a one-line haul, you would get the rate less the differential. It would be a differential of three cents, which would be the difference, I think, unless at competitive points, those trunk lines usually make the same rate.

Mr. Cowan: Having had that explained, I want to know where this ten per cent deduction comes in, in the case of a two-line haul.

Commissioner Allen: I was wrong about the ten per cent. It occurred to me that you took the two mileages, fifty miles on each line, and took the sums of those two locals and deducted ten per
5423 cent, but I am mistaken. It is a two-line haul with a differential on lumber.

Mr. Cowan: To clear the whole matter up, we should discard the consideration of that ten per cent proposition entirely and say that a two-line haul is a differential higher than a one-line haul between the same two points or for the same distance, in the State of Arkansas?

Commissioner Allen: It would not be at a competitive point. It would be at an intermediate point.

Mr. Cowan: In no case is the two line haul less than the one-line haul for the same distance?

Commissioner Allen: No.

Mr. Cowan: And in all cases the distance rate applies whether on a tap line or main line, or what, on lumber?

Commissioner Allen: Yes.

Mr. Cowan: Do you compile any statistics of the traffic and tonnage handled by railroads in the State of Arkansas on the plan of the Texas Railroad Commission?

Commissioner Allen: No.

Mr. Cowan: You make up no tonnage statistics?

Commissioner Allen: No, we do not.

Mr. Cowan: Do you have, in the State of Arkansas any
5424 public bureau or official who does furnish statistics with respect to the lumber production?

Commissioner Allen: No, sir.

Mr. Cowan: Do you apply a milling in transit in Arkansas on logs?

Commissioner Allen: Yes, sir.

Mr. Cowan: What is your rule on that subject?

Commissioner Allen: Well, for the movement of the logs or rough lumber over a one-line haul, we have a milling in transit rate which is very low; it runs from two cents to I believe the maximum is eight. We require the shipper to furnish the railroad company a

bond as a guarantee that they will give it the outbound haul of the product in order to get this low milling in transit rate. It was the custom of the railroad companies before the Commission was created, to use a rate of this kind, but they charged the flat rate or the full local rate and rebated the difference when the tonnage was given back to them, the tonnage out, the outbound haul was given to them. In the opinion of the Commission that worked a hardship on the small manufacturers or small mills, and kept a great deal of their capital tied up, and they were sometimes slow about
5425 getting the rebate back, and we required them to cancel that and just put in a flat milling in transit rate for this rough material.

Mr. Cowan: That is on logs, for example?

Commissioner Allen: Yes, on logs or rough lumber, and then give them the outbound haul, the tariff providing for what per cent they should have out on different articles manufactured.

Mr. Cowan: Does that milling in transit rate mean that there is the Arkansas distance tariff applied from the saw mill to whatever destination it is worked up?

Commissioner Allen: Yes, to the manufacturing point or planer.

Mr. Cowan: And that saw mill has the right to ship in on a rate from where the logs originate to the saw mill at a very low rate?

Commissioner Allen: Yes, sir, provided they give the same lines bringing them in the outbound tonnage.

Mr. Cowan: On the Arkansas distance tariff?

Commissioner Allen: Yes, sir, and if they fail to do that they are required to pay the flat lumber rate, the log rate.

Mr. Cowan: So that with the two rates on logs in such a case, one would be a low rate for the purpose of milling?

5426 Commissioner Allen: Yes, sir.

Mr. Cowan: And the other would be a much higher rate which would apply if they were not to mill the logs at all?

Commissioner Allen: Yes, sir; the local rate.

Mr. Cowan: But in no case are the logs hauled for nothing just for the lumber rate out of the mill?

Commissioner Allen: No.

Mr. Cowan: The interest of the Arkansas Commission I assume in this case is to secure for your producing interests the cheapest rates to the consuming markets of the product to be shipped?

Commissioner Allen: Well, our interest is to have just and reasonable rates, yes, sir; that is the object of the Commission.

Mr. Cowan: You do not want interstate rates made for the mere purpose of aiding the development of the state except that the interstate rates shall be reasonable both to the railroads and shippers?

Commissioner Allen: No, we do not want a rate that is unreasonable.

Mr. Cowan: What objection would you have to reducing the trunk line rates on interstate business and then adding a
5427 differential on the tap line, just like your state does, a differential higher to the tap line points, like in the case of state shipments?

Commissioner Allen: Reducing the interstate rates?

Mr. Cowan: Reducing the trunk line rates and then making a differential higher to the tap line points, a similar differential to what you make to the tap line points, on state business.

Commissioner Allen: Well, if that did not increase the rate, of course it would not affect the State of Arkansas at all.

Mr. Cowan: In other words, if the amount paid by the producing interests of Arkansas in the aggregate that went into the coffers of the trunk lines were not increased, Arkansas as a state would not be hurt?

Commissioner Allen: It would not hurt the people, but I imagine it would hurt some of the tap lines if you reduced their revenue.

Mr. Cowan: But the Commission of Arkansas is not particularly representing them?

Commissioner Allen: We are — them, just the same as the people, we are supposed to. I think a railroad is entitled to the
5428 same consideration that an individual is, if they invest their money, they are entitled to the protection of the Commission.

Mr. Cowan: You want the Interstate Commerce Commission to give them protection of a sort which the State Commission does not give them on lumber?

Commissioner Allen: As I say, the state Commission has given them the protection asked, and it has been satisfactory to them.

Mr. Cowan: If it is satisfactory to the state business, why ought not it to be so and on a similar system for the interstate?

Commissioner Allen: I could not say.

Mr. Cowan: That is all.

Commissioner Allen: If it would reduce their revenue, it would be unsatisfactory; I can see that.

Commissioner Harlan: I understood you to say there is a charter board in the State of Arkansas.

Commissioner Allen: Yes.

Commissioner Harlan: To which those——

Commissioner Allen: Who want to build railroads apply.

Commissioner Harlan: And the charter is issued after due
5429 consideration of the application, by that board?

Commissioner Allen: Yes, sir; if they are satisfied that they should have it.

Commissioner Harlan: Under the laws of the State of Arkansas, may a railroad which has been so chartered and constructed, in pursuance of its charter be torn up and moved elsewhere by those who have built it?

Commissioner Allen: I think not, sir. I think the laws of the state would prevent that, if there was any reason at all for maintaining that track, I think we would compel them to do it.

Commissioner Harlan: Suppose there is no reason; have they still the right to do it?

Commissioner Allen: Well, I think if there was no business along that line, for instance, built as you say by a lumber company, and they cut off all the timber and there was no farming interests there, that they could get permission to remove that track.

Commissioner Harlan: Does the law so provide?

Commissioner Allen: Well, I do not know anything, any particular law except the Commission law. I know the Commission has held a time or two that they had no right to discontinue their
5430 service and have issued orders to that effect.

Commissioner Harlan: It was your view, as I understand you to state it, that one of the special reasons why your Commission was interested in these tap lines was that they tended to build up the country?

Commissioner Allen: Yes, sir.

Commissioner Harlan: And make new farms?

Commissioner Allen: Yes.

Commissioner Harlan: And open up districts to population?

Commissioner Allen: Yes.

Commissioner Harlan: Suppose there are farmers that have gone there, a few of them, that can use this road, and perhaps have used it; do you think it would be right to tear up the rails?

Commissioner Allen: No; if there was any business there to amount to anything I think not.

Commissioner Harlan: Is it nevertheless not a common occurrence in your state for a lumber company without application to your Commission or to the charter board and without regard to the interests that may have used the road, farmers and others, when they get through, to tear up their rails?

Commissioner Allen: If it is, the Commission does not
5431 know about it. I will say during my term on the Commission for four years that we have never had a complaint to that effect except in two instances, and we have forbid both of these lines from removing their track. Those are the only two I know of. There may have been some removed. But there was no complaint by anybody to the Commission.

Commissioner Harlan: But according to your information, it is not of infrequent occurrence in the State of Arkansas to take up either the whole track or part of the track that has been laid by an incorporated company?

Commissioner Allen: I do not think it is. I think possibly some of these roads in an undeveloped country where they are cutting the logs might run a spur out to the timber which might be discontinued, but my opinion is if there were any farmers living along one of those roads, and there was any business there at all, as soon as they learned that the company was contemplating discontinuing the service there or removing the track they would appeal to the Commission for relief.

Mr. Garwood: Do your statutes provide any penalty for failure to run trains regularly, passenger trains, for instance?

5432 Commissioner Allen: The Commission has a rule requiring trains to be run on their schedule; that is, to start from junction points.

Mr. Garwood: Is there any pecuniary penalty for failure to obey the order of the Commission?

Commissioner Allen: Yes, sir, the penalty for violation of an order of the Commission is a fine of not less than $500 or more than $3,000.

Mr. Garwood: I wanted to get at whether, when they fail to discharge certain duties of common carriers they are not subject, as in our state, to a very severe pecuniary penalty and if they took up the track and went off, they might go off with a prosecution.

Commissioner Harlan: You mean if they disobey the orders of the Commission?

Mr. Garwood: Yes. I asked first if the statute did not provide such a penalty.

Commissioner Allen: The act creating the Commission provided that penalty.

Commissioner Harlan: That is for refusal to obey one of your orders?

Commissioner Allen: Yes, sir.

5433 Commissioner Harlan: But do you understand that the statute provides for a penalty against those who own the so-called tap line who tear up the rails when you have made no order?

Commissioner Allen: I could not say as to that, but so far as I know or my opinion is that the common law would prevent any railroad company from tearing up and removing their tracks.

Commissioner Harlan: My question was in a case where the track had been torn up, is there any penalty provided in your statute?

Commissioner Allen: I say I do not know that there is.

Mr. Walter: You could order that track restored, and then if they failed to comply with your order, the penalty would be imposed?

Commissioner Allen: I think it could.

Commissioner Harlan: We need not go into any speculations as to what you would do under given circumstances. The charters ordinarily issued in your state indicate the termini of a road that is proposed to be built, do they not?

Commissioner Allen: Yes, sir.

5434 Commissioner Harlan: Is there any penalty in the statutes of your state for failing to follow the route indicated and choosing another route or exceeding the track that is authorized in the charter and going beyond the terminus?

Commissioner Allen: I could not say as to that.

Commissioner Harlan: Mr. Commissioner, if it should appear that in a number of cases tracks have been removed after having been constructed and operated by a so-called incorporated tap line without complaint, it would tend to indicate, would it not, that there is no community there to be served by the so-called common carrier?

Commissioner Allen: I would think so, unless it was a spur track. The trunk lines remove spur tracks along the line; sometimes they are put in for special purposes.

Commissioner Harlan: In case a trunk line discontinues a branch or spur track and there is no complaint——

Commissioner Allen: The Commission would take no action.

Commissioner Harlan: Yes, and it also indicates there is no public there to be served.

Commissioner Allen: No public necessity for it. My experience is that most of these lines which have been discontinued are what I would call a spur track. For these lumber roads built out in different directions to get these logs, and so far as the main line of
5435 these short lines, I do not know of very many that have been discontinued; in fact, I do not know of any in the past four or five years.

Mr. Walter: You do not think that would indicate that that short line is any less a common carrier than in the case of a trunk line which took up a spur?

Commissioner Allen: Not at all.

Commissioner Harlan: Where a spur is taken up by a trunk line, that was laid for the purpose of getting those logs, and no protest follows from any outside interest, would it not follow also that the spur was laid somewhat with the expectation of getting divisions on the traffic coming from the spur?

Commissioner Allen: I would think that the spur would be laid by the company owning the tap line to reach timber that they could not get otherwise, and that as soon as the timber was cut off, they would probably remove it or put it in some other direction.

Mr. Garwood: Just one more question. To what extent, if any, have these short lines in Arkansas been acquired by the trunk lines or main systems and welded into parts of the trunk lines?

5436 Commissioner Allen: My experience has been during the last three or four years of my term on the Commission that as soon as these short lines became a paying proposition that they are absorbed by the trunk lines invariably.

Mr. Garwood: Has that been done to any very great extent, either before you went upon the Board or since that time within your knowledge?

Commissioner Allen: Yes, sir, it has; since I have been on the Board, a number of those lines have been absorbed by the Iron Mountain.

Commissioner Harlan: Do you know how many railroads have been chartered in your state since the state was organized?

Commissioner Allen: No.

Commissioner Harlan: Are those obtainable anywhere?

Commissioner Allen: Yes.

Commissioner Harlan: Will you obtain them?

Commissioner Allen: Yes.

Commissioner Harlan: Do you know how many railroads are now reporting to your Commission?

Commissioner Allen: I could not say that.

Commissioner Harlan: You can get those figures?

Commissioner Allen: Yes, sir.

5437 Commissioner Harlan: If you will, embody it in the same statement.

Commissioner Allen: I cannot get it here.

Commissioner Harlan: No, later, and send it to us at Washington.

Commissioner Allen: Yes, sir.

Mr. Cowan: I would like to ask the witness if there is a list of the industrial roads we are talking about or tap lines and those which do not get divisions, if you could furnish us a list of them, whether they are common carriers, chartered or not.

Commissioner Allen: What is that?

Mr. Cowan: A list of the railroads, whether chartered or not.

Commissioner Allen: That are common carriers?

Mr. Cowan: Whether common carriers or not, and the so-called tap lines. I assume there are a good many mills in your state which are logged by railroads which are not chartered.

Commissioner Allen: Yes, sir, we can give you a list of the short lines which are chartered under the state laws, and give you a list of the logging roads also.

5438 Commissioner Harlan: Do your records show which of those are receiving allowances and which are not?

Commissioner Allen: Yes, sir.

Commissioner Harlan: And it could be shown on the statement also?

Commissioner Allen: Yes, sir.

Mr. Coleman: I would like to ask if you can tell offhand the names of some of those short lines of railroad which were absorbed by trunk lines.

Commissioner Allen: Well, the Hot Springs & Western is one; it is a very important road now. And the Pine Bluff & Western, the Brinkley, Helena & Indian Bay road, and I think there are several others; I cannot recall their names, but those have all become parts of the trunk lines lately.

Mr. Coleman: I suppose there is a statute against discrimination in Arkansas.

Commissioner Allen: Yes.

Mr. Coleman: Is there any authority given to the Railroad Commission to make an arbitrary distinction between a trunk line railroad and a main line railroad?

Commissioner Allen: The Commission has the right to make any rate that they think proper and just for a tap line railroad,

5439 but that rate must apply to all people that can be served by that railroad. It is not a discrimination in the opinion of the Commission if everybody is served that can be served and pays the same rate.

Mr. Coleman: Cannot you answer that question directly yes or no? Is any power given to your Commission to make a distinction between one kind of a railroad and another? You know your powers.

Commissioner Allen: In what respect?

Mr. Coleman: In any respect. Are not all railroads considered as railroads? You do not make a distinction into classes, do you?

Commissioner Allen: No.

Mr. Coleman: I would like to put this question: Supposing that I owned a mill and had no tap line and was marketing lumber in competition with a mill which had a tap line, and that tap line was allowed a division of four cents per 100 pounds, and I was paying

the through rate, would you not consider that there was a discrimination against me as a private shipper of something like four cents per 100 pounds?

Commissioner Allen: I would not.

Mr. Coleman: Now, by what kind of reasoning do you
5440 arrive at that result?

Commissioner Allen: I think the man that got the four cents per 100 pounds division has an investment in a railroad. If he has his money invested in a railroad, he is entitled to reasonable compensation on his investment. You have no investment in a railroad, and you are running a saw mill and there would be no discrimination at all. That would be reasonable, and probably the four cents would be a reasonable rate.

Commissioner Harlan: Suppose Mr. Coleman has a railroad and it is doing for the community all that the other railroad is doing, and he gets no allowance and the other railroad does, does that involve no discrimination?

Commissioner Allen: I would think so; yes, sir.

Commissioner Harlan: Then if Mr. Coleman would simply incorporate his railroad and do nothing further for the community than he has been doing, that would equalize the situation?

Commissioner Allen: No, but as I understand Mr. Coleman's situation, there are two mills situated on a railroad——

Commissioner Harlan: No, but I have directed your attention to another situation, and I am assuming now that Mr. Coleman
5441 has a railroad; he has not taken out a charter in your state, but he is doing precisely what the other railroad is.

Commissioner Allen: If he is doing precisely the same service, he should get the same division.

Commissioner Harlan: Even though it is not a chartered railroad?

Commissioner Allen: Well——

Commissioner Harlan: Does not it present some difficulties to your mind?

Commissioner Allen: Yes, sir. If he had not a chartered railroad I would think so.

Commissioner Harlan: Supose Mr. Coleman sees fit to charter his road, and we will say the Iron Mountain allows him a division of two cents and allows the other road in the same general neighborhood a division of four cents, does that involve any element of discrimination?

Commissioner Allen: If it was the same service I should say that they ought to have the same consideration.

Mr. Coleman: Could you tell me off hand the distance tariff rate on lumber that you allow a main line or trunk line?

Commissioner Allen: No, I could not. I——

5442 Mr. Coleman: Could you give me any idea what it is based on?

Commissioner Allen: The tariff we are working on now is made under the order of the Court there, and I am not at all familiar with it but——

Mr. Coleman: You can tell within a cent or two per mile?

Commissioner Allen: Yes, sir. I think possibly the maximum for 300 miles is twelve or fifteen cents, which is about as near as I could get that.

Mr. Coleman: If I direct your attention to the fact that some tap lines are receiving two cents for half a mile haul and five cents for a mile haul, and that you are allowing the main lines only fifteen cents for a 300 mile haul, does not that raise in your mind some question as to whether you are treating the carriers all alike?

Commissioner Allen: No.

Mr. Coleman: It does not?

Commissioner Allen: No, sir.

Mr. Coleman: In answer to a question from Judge Garwood you stated that the only hope of the development of Arkansas was from the tap line railroads. Is that correct?

Commissioner Allen: That is correct.

5443–4 Mr. Coleman: Why do you state that?

Commissioner Allen: Because we cannot very well expect the trunk lines to build spurs. There are four trunk lines running through the state, and the country that is undeveloped is as a rule expensive country to build through. The trunk lines would rather the other fellow would build those railroads, and establish tonnage and towns and develop the country, and then absorb them, than to build them and carry them for years before they become a paying proposition.

Mr. Coleman: Now you also stated that the tap lines could not exist without the division received from the trunk lines.

Commissioner Allen: I did not say that.

Mr. Coleman: Well, do you mean to say that they can exist without it?

Commissioner Allen: I say they cannot exist without a reasonable compensation for their service, whether it comes in the shape of a division of a rate or whether it comes as a differential, it does not make any difference.

Commissioner Harlan: Mr. Commissioner, the yellow pine lumber people in your state compete substantially in the same markets, do they not?

Commissioner Allen: Yes, sir, I think so.

5445 Commissioner Harlan: And as a general proposition you would say that the rates should be so adjusted as to give them all a fair opportunity in competition with one another? I am saying by and large, taking the whole productive area in your state. Now, the interstate rate is a blanket rate?

Commissioner Allen: A blanket rate; yes, sir.

Commissioner Harlan: Ought not the general conditions under which that blanket rate is applied be such as to give all those mills a fair and equal opportunity in the general public markets?

Commissioner Allen: I would think so; yes, sir.

Commissioner Harlan: So that if there are some mills in your state that receive divisions because they own tap lines, and other mills in your state owning tap lines nevertheless receive no divisions, there is an obvious inequality in the conditions under which they compete in the general markets, is there not?

Commissioner Allen: Yes, sir, I would think so.

Commissioner Harlan: Now if you should be told that there are forty-one milling operations in your state operating tap lines from two to twenty miles long under precisely the conditions that
5446 other tap lines and other mills are operated that get no allowance in the way of divisions of the through rates, you would also say that they are at a disadvantage in the general market, would you not?

Commissioner Allen: Yes, sir.

Commissioner Harlan: Practically to the extent of the allowances received by the lines that do get allowances. That being so, is there not a condition of discrimination or inequality in Arkansas that ought in some way to be stopped?

Commissioner Allen: Well, I do not consider that there is.

Commissioner Harlan: You mean you doubt the facts that I have stated?

Commissioner Allen: Oh, no. You said if those conditions prevailed, I understood you to say.

Commissioner Harlan: Yes.

Commissioner Allen: My contention is this, that if there are two mills on one line, because one of the mills owns a railroad, that he was not entitled to a division or reasonable freight rate, or that the other man was being discriminated against if he did get that service—I mean as——

5447 Commissioner Harlan: Won't you be good enough to answer the question I have put? Assuming the fact that I have stated, that there are forty-one milling operations owning tap lines from one mile long up to twenty miles, operated under substantially the conditions that generally prevail in your state with respect to tap lines that do get divisions and that those forty-one tap lines get no divisions; now you have admitted that indicates a condition of inequality or discrimination.

Commissioner Allen: I would say it does; yes, sir.

Commissioner Harlan: My further question is whether in your judgment that is a condition that ought to be stopped in some way.

Commissioner Allen: Yes, sir, I would say so.

Commissioner Harlan: Very well. We will carry the suggestion a little farther. Suppose you were told that west of the Mississippi River tap lines as a rule received divisions although many do not, and that east of the Mississippi River there are a great many milling operations that have tap lines that are run under precisely the same general conditions that characterize the tap lines west of the river, and as a rule they receive no divisions; does not that in your
5448 judgment set up a basis of inequality in the general markets, a basis of discrimination?

Commissioner Allen: I would think so; yes, sir.

Commissioner Harlan: Would you not go further and say that in some way that ought to be stopped?

Commissioner Allen: Yes, sir, I do.

Commissioner Harlan: Assuming, of course, that the rate conditions are the same. Of course where the rate conditions differ, there

might be an absorption of those advantages. Any further questions?

Mr. Garwood: Just one question. Do you know of any case where a tap line does not get divisions that is incorporated; that assumes the burdens and expenses of a common carrier, that makes reports to the Government, that maintains separate organization apart from a lumber company and engages in all those expenses, is there any such case as that that you know of, where that railroad does not get a division?

Commissioner Allen: If there is any such case I do not know of it

Mr. Garwood: Have you ever heard of any such case?

Commissioner Allen: I never have.

Mr. Garwood: Then it is utterly impossible that the similarity of conditions could have existed in the cases in the question put to you by his Honor a moment ago; there can be no similarity in the conditions?

5449

(No reply.)

Mr. Cowan: The witness has not answered.

Commissioner Harlan: The witness has not answered it, but that is a matter for argument.

Mr. Garwood: It is a matter of assumption, just as your Honor's question was.

Commissioner Harlan: I think there is a good deal of assumption in it, and perhaps it is a question which had better be argued later, rather than be decided by the witness.

Mr. Garwood: I think it is exactly on the line of the hypothetical question propounded by your Honor.

Commissioner Harlan: Very well, if the witness has any opinion to express, he may.

Commissioner Allen: Well, I would say this, if a road is a chartered road, and complies with all the laws and regulations and requirements of the Commission, that it would certainly be entitled to more consideration and a greater revenue than a man who had built a logging road out here, solely for the purpose of marketing his own logs; he is not required to furnish any equipment or perform any public service; consequently, he would not be entitled to the same consideration

5450

Mr. Cowan: I want to ask a question in that connection. Suppose, as has been shown by the testimony in this case that a logging road is incorporated solely for the purpose of getting divisions out of the lumber that is hauled for its owner; do you think that it is entitled to the considerations you have mentioned?

Commissioner Allen: Well, my observation is that roads are compelled to incorporate or get charters from the state and incorporate in order to condemn the right of way and build through private property.

Mr. Cowan: It has been shown in this case that a number of them were incorporated for the sole purpose of getting the division, and I am asking you if in your opinion that sort of an incorporation entitles them to considerations——

Mr. Garwood: I would like to interpose the objection that the law does not inquire into the motive of the incorporators——

Mr. Coleman: Yes, it does.

Commissioner Harlan: You have the objection noted. The witness may answer.

5451 Commissioner Allen: If it is shown he incorporated solely for the purpose of receiving a rebate——

Mr. Cowan: A division of the rate, I said.

Commissioner Allen: Or a division in the rates, that his competitor did not enjoy, I think that would be wrong; but as I understand, all of these roads who do get a charter and comply with the laws do get this division.

Mr. Coleman: Mr. Commissioner, you stated experience teaches us all that these roads can be operated at much less cost by the saw mill owners than by the trunk lines. Is that so?

Commissioner Allen: By private corporations; yes, sir. I think that is so.

Mr. Coleman: I suppose you have looked into it considerably.

Commissioner Allen: Well, I have looked into it enough to form an opinion.

Mr. Coleman: You looked into the case of the Pine Bluff road, I suppose, more or less?

Commissioner Allen: No.

Mr. Coleman: Never looked into the case of this road?

Commissioner Allen: No.

5452 Mr. Coleman: If I tell you that the Pine Bluff Railroad, for a period of five or six years, has been charging for construction of pieces of track all the way from seven to twenty-one miles long and has been charging that to operating expenses, would you say that was economical railroad management?

Commissioner Allen: Well, I am not a judge of those things and am not competent to pass upon it.

Commissioner Harlan: I do not think we will go into that.

Mr. Coleman: You also mentioned the case of labor being less.

Commissioner Allen: Yes, sir.

Mr. Coleman: Do you know the engineers, firemen, conductors and brakemen are not members of the railroad organizations?

Commissioner Allen: I mean that they are all hired at a fixed salary on these little roads. My experience is that they are, and that their salary is about half what they would get on the main lines where they belong to the union organizations.

Commissioner Harlan: I think perhaps we are not adding to the value of the record by this line of examination.

5453 Mr. Cowan: Judge Harlan put in his question the conditions east of the river and west of the river. There is another point I would like to call to your attention in that, the rates from the producing territories of yellow pine, say to the common markets from points east of the river are on a basis two cents lower than they are from points west of the river, or to put it the other way, two cents higher west of the river, and the railroads do not give the divisions out of the rates east of the river, but do west of the river.

Commissioner Harlan: Pardon me; they do in some cases east of the river.

Mr. Cowan: But generally speaking, I understand they do not. Do you know any reason why the rates west of the river should be higher in order to allow the railroads to give the tap lines divisions west of the river?

Commissioner Allen: I do not, sir.

Mr. Walter: You do know that the Interstate Commerce Commission found the circumstances so different as to warrant different rates east of the river and west of the river?

Commissioner Allen: Yes, sir.

Commissioner Harlan: Do you undertake to control the rates and the relations of tap lines with other carriers, when they are not incorporated?

5454 Commissioner Allen: No, sir; not unless they put themselves up and make themselves common carriers.

Commissioner Harlan: Suppose they carry passengers free of charge, we will say, and they carry other freight.

Commissioner Allen: If they do that, that would not be noticed by the Commission.

Commissioner Harlan: Do you think that a division to a tap line ought to be higher because it reaches two regular lines, than a division accorded to a tap line in the same general locality that reaches only one regular line?

Commissioner Allen: I do not.

Mr. Walter: Suppose the New York Central and the Pennsylvania Railroads were operating in your state, would you say that one of those lines should be denied the right to a joint rate with the other solely because the biggest shipepr on the New York Central might be owned by the president of that road?

Commissioner Allen: No, sir.

Commissioner Harlan: Oh, well, that is a question of law, and it is a question about which no witness would have better judgment than anyone else.

5455 Mr. Walter: But it is asked all along, and has been made the feature of this investigation.

Commissioner Harlan: I have not understood that that question has been made a part of this record. I have understood from your general observations that you do not think that a tap line is entitled to a larger proportion of a through rate because it originates the traffic, and that is not the practice in the State of Arkansas, of allowing it a larger division on that ground.

Commissioner Allen: Well, yes, I think it ought to have a reasonable division because that is all they get out of it. If they originate the tonnage, they are certainly entitled——

Commissioner Harlan: To a higher division on that account?

Commissioner Allen: I do not know that you would say a higher division, but it seems to me if they originate the tonnage, they ought to get a reasonable return.

Commissioner Harlan: Well, ought they to have a bonus or premium on that ground?

Commissioner Allen: What do I understand that you mean by that? That if a tap line moves a carload of lumber five or ten miles

on their line that they originate, and it moves ten miles, that
5456 they should haul that and deliver it to the carrier for the same price as the main line rate would be for the same distance; do you mean that?

Commissioner Harlan: Yes, assume that state of facts; do you think that is right?

Commissioner Allen: No. I would not think they ought to perform that service for the same money; I think they would be entitled to a higher rate.

Commissioner Harlan: Do you think that they ought to have any higher proportion of the through rate than an ordinary switching line would have?

Commissioner Allen: Yes, sir.

Commissioner Harlan: Why?

Commissioner Allen: Well, simply because a switching charge is never considered a reasonable charge if that is all the company gets out of it. They switch cars at a loss, or they claim they do, but it is necessary, and there is an arrangement between the carriers of reciprocal switching, which they absorb, and that of course is very small.

Commissioner Harlan: Well, we have had instances on this record of tap lines that move the lumber all the way from twenty-five feet to three or four miles. Why should they have more than an
5457 ordinary switching line would have for like service: do you know any reason why?

Commissioner Allen: Well, I do not, unless it would be that a switching line would have very much less expense, a shorter line and have more business, that you could take an engine, for instance, and switch a dozen cars and you would require that same engine to switch one car off a tap line, and the volume of business would cut some figure as to the cost to the carrier for that service.

Commissioner Harlan: The volume of the business is the reason why the switching line ought to have less than the tap line for the same service?

Commissioner Allen: I say they would be justified in doing it for less if the volume of business was larger.

Commissioner Harlan: Supposing a tap line is a party to a joint through rate and moves a car twenty-five feet or we will say a mile: why should it have anything more than a reasonable switching charge for that service?

Commissioner Allen: Because my idea is that it produces the tonnage and they cannot possibly get any revenue for that service performed in switching that—I mean in handling that car, under a switching charge. The connecting line does get a revenue
5458 because it has a long haul, and it makes money where the producing line would probably do that service at a loss.

Commissioner Harlan: In other words, you think it ought to have a premium because the shipments originated on the tap line?

Commissioner Allen: Well, yes, I would put it that way.

Commissioner Harlan: On that general basis, ought not the Belt Switching Lines here in St. Louis that originate a great deal of ton-

nage have some sort of a premium instead of some sort of switching charge?

Commissioner Allen: I do not know anything about the conditions in St. Louis, but I can speak for Arkansas; we have in the city of Little Rock and in Fort Smith a switching limit. We have found it necessary in cities of that size in order to take care of the different manufacturers and industries. We have found also that the railroad companies had in the past what they called reciprocal charges of $2.00 a car, say.

Commissioner Harlan: Is there a separate switching company there?

Commissioner Allen: No.

Commissioner Harlan: Then perhaps the conditions would
5459 not be the same.

Commissioner Allen: But they have reciprocal switching arrangements, and if a car comes in over the Iron Mountain Road and goes to a manufacturer on the Rock Island, of course the car is placed over there for a charge of $2.00 and the Iron Mountain absorbs that $2.00, but they claim of course that that is a loss——

Commissioner Harlan: But that is of course a reciprocal arrangement.

Commissioner Allen: Yes, it is reciprocal, but that is how they do it. Now, we have what we call a city switching limit, town switching is what they call it, but that is performed by any of the railroads in Little Rock and not by a separate switching company.

Commissioner Harlan: That seems to be all.

Mr. Walter: That principle of recognizing the originating line is no new proposition, either, to the State Commission, if it has been recognized by the Interstate Commerce Commission?

Commissioner Allen: No.

Mr. Coleman: Do you understand that the tap line furnishes the cars to send this traffic out on the main line?

5460 Commissioner Allen: Sometimes they do, and sometimes they do not. I understand the trunk lines furnish a great many of these cars and are glad to do it in order to get the tonnage.

Mr. Coleman: The main reason that the initial carrier gets any advantage over the next carrier in the matter of rates is because it furnishes the car; is not that your understanding?

Commissioner Allen: No.

Mr. Walter: You know that all cars move indiscriminately?

Commissioner Allen: Yes.

(Witness excused.)

Whereupon, at 12:40 P. M., a recess was taken until 2:00 P. M.

5461 After Recess.

2.00 P. M.

Mr. Walter: Have you finished with the Louisiana & Pine Bluff?

Commissioner Harlan: Yes.

Mr. Walter: Mr. Johnson was to be recalled to be examined generally, I believe.

Commissioner Harlan: We are now going to take up the Nacogdoches & Southeastern.

Mr. Walter: If you do not want Mr. Johnson further on these lines he would like to be allowed to go to his office to look after some matters.

Commissioner Harlan: Will he be back later in the day?

Mr. Walter: Yes. He would prefer to be examined now if that could be arranged.

Commissioner Harlan: We will call next the Nacogdoches & Southeastern.

5462 *Nacogdoches & Southeastern Railroad.*

E. A. Frost resumed the stand and testified as follows:

Commissioner Harlan: You have already been sworn and your name is in the record and your general connection with the Frost-Johnson Lumber Company. I will now ask you about the Nacogdoches & Southeastern. What is it, a railroad company or railway company?

Mr. Frost: The Nacogdoches & Southeastern Railroad Company.

Commissioner Harlan: By whom was that company owned?

Mr. Frost: The stock of that company is held by several stockholders for the stockholders of the Frost-Johnson Lumber Company.

Commissioner Harlan: Is there an intervening milling corporation like the Union Saw Mill Company in the other case?

Mr. Frost: There is an operating lumber company there and the stock of that company is held by the Frost-Johnson Lumber Company of Missouri.

Commissioner Harlan: The stock of this railroad company is not owned by the milling company?

Mr. Frost: No, it is owned by the Missouri corporation.

5463 Commissioner Harlan: Have you a map of the road?

Mr. Frost: Yes, sir, a map and a profile.

Commissioner Harlan: Have you a financial statement?

Mr. Frost: I have a copy here on which are some memoranda. It is prepared similar to the one I prepared for the Mansfield Road. It gives all the details. The map is in several sections.

Commissioner Harlan: You have not a general map here of the road?

Mr. Frost: Not a minute map, no. That is an alignment map, and I have the profile of the road here.

(The statement referred to was afterwards produced and marked Nacogdoches & Southeastern Exhibit No. 1, witness Frost, received in evidence January 27, 1911, and is attached hereto.)

Commissioner Harlan: Now tell us where this company is first.

Mr. Frost: Nacogdoches, Texas.

Commissioner Harlan: Organized under the laws of the State of Texas?

Mr. Frost: The Frost-Johnson Lumber Company of Texas.

5464 Commissioner Harlan: I am talking now about the railroad.

Mr. Frost: That is a Texas corporation.

Commissioner Harlan: Organized under the general road law?

Mr. Frost: Of Texas; yes, sir.

Commissioner Harlan: And when was it organized?

Mr. Frost: I can give you the exact date; it was chartered December 24, 1904.

Commissioner Harlan: Had the railroad been built prior to that date by some one else?

Mr. Frost: Well, I could not say about that. We acquired that property last March, 1910, both the railroad and the lumber companies' property.

Commissioner Harlan: You acquired it by purchasing the stock in each company?

Mr. Frost: We purchased the property of the Hayward Lumber Company and the stock of the Nacogdoches & Southeastern Railroad Company.

Commissioner Harlan: What is the length of that road and what are its termini?

Mr Frost: We are operating about fourteen miles, from Nacogdoches to Woden.

Commissioner Harlan: And what regular line connections
5465 have you?

Mr. Frost: We connect with the T. & N. O.

Commissioner Harlan: At what point?

Mr. Frost: At Hayward; that is the mill point. Then we own the line—we have not made the connection with the Houston, East & West Texas, but the track is built.

Commissioner Harlan: When made, where will that connection be?

Mr. Frost: In the town of Nacogdoches, right in the Houston, East & West Texas depot.

Commissioner Harlan: And where is the mill situated?

Mr. Frost: At Hayward.

Commissioner Harlan: Where with reference to the T. & N. O.?

Mr. Frost: Well, it is right along the line of the T. & N. O.

Commissioner Harlan: How far from it?

Mr. Frost: I would say two or three hundred feet.

Commissioner Harlan: Has the T. & N. O. any spur track running into your planing mill?

Mr. Frost: No, we own the tracks into the mill.

Commissioner Harlan: Was there a spur track belonging
5466 to that company there when you purchased the railroad?

Mr. Frost: Not when we purchased it?

Commissioner Harlan: Was there at any time?

Mr. Frost: Not that I know of.

Commissioner Harlan: The T. & N. O. has no ownership at all in that spur track?

Mr. Frost: Not that I know of, no, sir.

Commissioner Harlan: It did not furnish the steel or the labor or the ties?

Mr. Frost: Not that I know of. It was listed in the property of the Nacogdoches & Southeastern Railroad Company when we bought it.

Commissioner Harlan: And that mill is owned by the Frost-Johnson Lumber Company of Texas?

Mr. Frost: The mill plant?

Commissioner Harlan: Yes.

Mr. Frost: Yes, sir.

Commissioner Harlan: When was that organized?

Mr. Frost: That was organized I think in March, about the time we purchased the property, probably a few days after we got the charter; we applied for the charter at the same time we closed the deal for the property.

5467 Commissioner Harlan: The entire stock of that company is owned by the Frost-Johnson Lumber Company of Missouri?

Mr. Frost: Practically all.

Commissioner Harlan: And practically all the stock of the railroad company is owned by the Missouri corporation?

Mr. Frost: Yes, sir.

Commissioner Harlan: Does the Frost-Johnson Lumber Company of Texas own any timber lands?

Mr Frost: Yes.

Commissioner Harlan: Where are they and what is their extent?

Mr. Frost: In the Southern portion of Nacogdoches County.

Commissioner Harlan: How many acres do you own?

Mr. Frost: We purchased from the Hayward people between 35,000 to 40,000 acres, I think.

Commissioner Harlan: Did you get the title in fee to that property?

Mr. Frost: We got such titles as they had; some of the timber they had just bought timber rights in.

Commissioner Harlan: Have you since acquired any other lands?

Mr. Frost: Well, we have bought some; not very much.

5468 Commissioner Harlan: What is your total holding down there now?

Mr. Frost: Acreage?

Commissioner Harlan: Acreage.

Mr. Frost: Timber and fee?

Commissioner Harlan: Yes.

Mr. Frost: I do not think it will run over 40,000 acres.

Commissioner Harlan: Since you have purchased this road, have you extended it at all?

Mr. Frost: We have six miles under construction, which is almost completed. That has been built under the supervision of the lumber company.

Commissioner Harlan: Of the Missouri Corporation?

Mr. Frost: No, sir, the Texas corporation.

Commissioner Harlan: Does that belong to the railroad company?

Mr. Frost: It has not been turned over to the railroad company yet.

Commissioner Harlan: What will your total mileage be when those six miles are completed?

Mr. Frost: It will be about 20 miles; it is a fraction over 20 miles; probably 21 miles.

5469 Commissioner Harlan: Are you now conducting any lumbering operations on this line?

Mr. Frost: Yes, sir, we are operating the mill.

Commissioner Harlan: Are you hauling logs from your woods there?

Mr. Frost: Yes, sir.

Commissioner Harlan: You are not hauling, though, on this six miles of extension?

Mr. Frost: Well, I do not think they have moved the logging camps on to the end of the extension as yet, but they might have moved down there in the last week or ten days.

Commissioner Harlan: When completed, that is to be turned over to the railroad company?

Mr. Frost: Well, it could be; it is still the property of the lumber company.

Commissioner Harlan: In other words, is that a logging road or is it to be a part of the permanent roadway of the railroad company?

Mr. Frost: We have not decided whether we would sell it to the railroad company or let the lumber company retain it. We are figuring to sell it to the railroad company and——

5470 Commissioner Harlan: But that is not to be done in the immediate future?

Mr. Frost: That deal has not been consummated and the transfer has not been made of the property.

Commissioner Harlan: What was the cost of this six mile extension?

Mr. Frost: I could not give the figures exactly, but it was pretty expensive work. I have not the figures and I do not know. It is on the lumber company's books.

Commissioner Harlan: Why was it expensive?

Mr. Frost: It is rough country and the grading was heavy.

Commissioner Harlan: Have you some cuts and fills?

Mr. Frost: Yes, sir; the profile shows it.

Commissioner Harlan: Any bridges?

Mr. Frost: Yes, sir.

Commissioner Harlan: Do you know about how much it cost per mile?

Mr. Frost: I could not give it accurately; probably ten or twelve thousand dollars a mile, or maybe fifteen thousand dollars for some of it. Say from eight to fifteen thousand dollars a mile.

5471 Commissioner Harlan: What did the line cost that you purchased last year?

Mr. Frost: We purchased the stock of the road with the property of the Hayward Lumber Company. We did not separate it. We took the cost according to their figures and figured that at about what we thought would be an average price or a correct price, and figured the other property, and paid them so much money for both properties; that is, the property of the Hayward Lumber Company and the stock of the Nacogdoches & Southeastern Railroad Company.

Commissioner Harlan: That is, you bought their forests and mill and the railroad at a given price?

Mr. Frost: Yes, sir.

Commissioner Harlan: Then you subsequently assigned so much of the purchase price to the railroad?

Mr. Frost: In arriving at the total value of all those properties, we figured each property separately.

Commissioner Harlan: What figure did you place on the railroad property?

Mr. Frost: Their statement showed that it cost something over $200,000.

Commissioner Harlan: Including equipment?

Mr. Frost: No, sir, the equipment was separate from that
5472 item. The total cost of the road, according to their books, up to June, 1910, and we just carried the books through as they started, showed $200,000.49, and the cost of equipment $38,516.

Commissioner Harlan: What is the amount of the capital stock of the railroad company?

Mr. Frost: The capital stock is $250,000, but there is only $245,400 issued.

Commissioner Harlan: Has it any bonded indebtedness?

Mr. Frost: No, sir.

Commissioner Harlan: What equipment has it?

Mr. Frost: They have two locomotives, one combination car, six box cars, two flat cars and fifty-four logging cars.

Commissioner Harlan: The combination car is the passenger?

Mr. Frost: Yes, sir, it is used for carrying passengers.

Commissioner Harlan: Tell us in your own way what the tonnage of this road is. If you have the figures for the last fiscal year, state them.

Mr. Frost: Shall I read just as I have them here? They might not come just as you call for them.

Commissioner Harlan: What have you there?

Mr. Frost: I have given you just the list of the equip-
5473 ment. The next is station buildings at Hayward and Woden, consisting of two waiting rooms, office and freight room. One 100-ton 40-foot Fairbanks track scale at Hayward. The track is laid with 45 and 56 pound steel, and they are all oak ties. We have about 20 employees in the service of that road.

Commissioner Harlan: That includes the engineers and trainmen?

Mr. Frost: Sectionmen and agents.

Commissioner Harlan: And office employees?

Mr. Frost: And the traffic man. This memorandum is of classified tonnage in carloads, handled for other than lumber company——

Commissioner Harlan: Just a minute. Let us find out something about Hayward. That is a new town, is it not?

Mr. Frost: That is where the mill is located.

Commissioner Harlan: What is the population? Well, we employ—probably 500 or 1000 people living around there. It is just south of the town of Nacogdoches, a town of probably three or four thousand people.

Commissioner Harlan: You own the town of Hayward, do you?

Mr. Frost: We own a certain amount of the property, but
5474 some of our employees live on other peoples' property adjacent to what we own.

Commissioner Harlan: Do you run a store?

Mr. Frost: We run a store; yes, sir. There are quite a number of other stores there.

Commissioner Harlan: Now, you were starting to state what?

Mr. Frost: This is a list of the classified tonnage, the report of which you have.

Commissioner Harlan: For what year?

Mr. Frost: For the year ending June 30, 1910.

Commissioner Harlan: Well, what was the gross tonnage during that year?

Mr. Frost: Well, I have not got the gross——

Commissioner Harlan: State the tonnage as you have it there.

Mr. Frost: This is subdivided here.

Commissioner Harlan: Very well.

Mr. Frost: Ties fifty-five cars; stave bolts, two cars; ash logs, thirty-eight cars; lumber, thirty cars; live stock, six cars; hay, two cars; oil, two cars; grain, two cars; sewer pipe, one car; railway material, eleven cars; other mill products, two cars; coal, one
5475 car; roofing, two cars. From July 1st, 1910 to December 31st——

Commissioner Harlan: What was the live stock, horses?

Mr. Frost: I think it was cattle shipped to some point out in Texas; I am not sure about it, I think it was.

Commissioner Harlan: Have you figures there showing how much of that tonnage was company tonnage?

Mr. Frost: I think I have later on in this statement. Now the classified tonnage for the last six months of last year, according to this report shows coal, seven cars; lumber, twenty-five cars; logs, five cars; live stock, six cars; other mill products, two cars; oil, four cars; railway material, fourteen cars; household goods and furniture, four cars; hay, two cars; fence posts, two cars; ice, two cars; cotton seed, two cars. Now, this sheet——

Commissioner Harlan: Can we look at these?

Mr. Frost: Yes, sir; it is just the same as the Mansfield figures I had yesterday. It is taken from the books.

5476 Commissioner Harlan: Will you let me look at those, unless you have some memoranda on them you do not care to show.

Mr. Frost: Yes, sir, I have some memorandums on them (handing paper).

Commissioner Harlan: This memorandum which you have just read is of tonnage for outside interests?

Mr. Frost: That is the way I understand it. I had it prepared.

Commissioner Harlan: 154 carloads all told?

Mr. Frost: Yes, sir.

Commissioner Harlan: Of which eleven were carloads of railway material?

Mr. Frost: That is possibly for the railroad company; I do not know why he got that item in there.

Commissioner Harlan: Well, this is a list of tonnage for other than the lumber company, so perhaps that is the reason it is put in.

Mr. Frost: That is the way I understand it.

Commissioner Harlan: Ties 55 cars, I suppose were for this new construction.

Mr. Frost: I think they were shipped, pine ties probably.

5477 Commissioner Harlan: You mean shipped out?

Mr. Frost: Yes, sir.

Commissioner Harlan: And not used by your railway company?

Mr. Frost: That is the way I understand the statement.

Commissioner Harlan: Is there any one here that knows about that?

Mr. Frost: No, sir, the man I had prepare those I did not bring along; I did not notice that item in there.

Mr. Walter: We will inquire and let you know definitely.

Commissioner Harlan: The sewer pipe, one carload.

Mr. Frost: I do not know what that was for.

Commissioner Harlan: What about the coal and the roofing, one carload of coal and two of roofing.

Mr. Frost: The coal was probably for the logging company, and he might have figured that that was an outside company.

Commissioner Harlan: Is that perhaps true of the roofing?

Mr. Frost: I could not say about that.

Commissioner Harland: Is it not possible that the six carloads of live stock were for the logging company also?

Mr. Frost: It is possible but I understood that they were shipping out five or six cars a day or two after I made a trip down

5478 there, they said they had shipped out some live stock to Texas, and I think that is the six cars they shipped.

Commissioner Harlan: The logging company?

Mr. Frost: No, a party went in there and bought them and shipped them out.

Commissioner Harlan: What about the hay, was not that probably for the company interests in some form or another?

Mr. Frost: I do not think so, because we used a great deal more hay than that, and it would be a greater number of cars.

Commissioner Harlan: You do not know about the oil or the two carloads of grain?

Mr. Frost: No.

Commissioner Harlan: You have not any accurate information in respect to this 154 cars?

Mr. Frost: Only the memorandum at the head of the list.

Mr. Walter: He can tell you about the oil, I guess.

Commissioner Harlan: What about the oil, do you know anything about that?

Mr. Frost: We have quite a number of oil wells at Oil City and they might have shipped the oil, and it might be two cars of oil they shipped from that point.

Commissioner Harlan: Is that on your line?

5479 Mr. Frost: Yes, sir.

Mr. Walter: How many wells are there?

Mr. Frost: Well, nobody knows; they are variously estimated at

any where from 20 to 100 wells; they are drilling there since we have gotten the track down to where they can have transportation facilities, they have commenced to operate in the field.

Commissioner Harlan: Is there not a pipe line leading from that field?

Mr. Frost: No; there was about 15 years ago, but it was three inch pipes, and they found it was so small they could not carry the oil through and abandoned the wells because there was no service.

Commissioner Harlan: Is it served by any other line?

Mr. Frost: No, it is about 18 miles from Nacogdoches.

Commissioner Harlan: And this was the total outbound shipment, two carloads?

Mr. Frost: I cannot say that that oil came from that field, but that is the only oil that I know of that they could ship.

Commissioner Harlan: It might have been an inbound movement?

Mr. Frost: It might have been an inbound movement. I can find out.

5480 Commissioner Harlan: Well, you have no more definite information about the 75 carloads that moved for the six months ending December 31st, 1910, as shown on this paper?

Mr. Frost: According to that report it was all outside business.

Commissioner Harlan: Well, it has 14 cars of railway material and 25 carloads of lumber.

Mr. Frost: That was outside lumber, two small mills down there.

Commissioner Harlan: The railway material must have been for your line?

Mr. Frost: That might have been for the logging company.

Commissioner Harlan: It must have been for the logging company or your new construction?

Mr. Frost: He lists it there as new railway material. It might have been pine ties shipped out to the creosoting plant.

Commissioner Harlan: You have another item here of ties. You cannot tell us definitely what that exhibit means?

Mr. Frost: No, but I can get that information.

Mr. Walter: We will furnish a detailed statement showing
5481 the consignee and consignor.

Commissioner Harlan: It is not the details we desire, but it is simply to know what portions, if any, of those carloads were inbound or outbound shipments of these allied interests.

Mr. Walter: That could only be shown by an examination of the way bills.

Commissioner Harlan: I suppose it can be ascertained in one way or another, but we do not care for the details except that one fact.

Mr. Walter: We will give you that one fact.

Mr. Frost: As I understand it, you want to know if there were any carloads in that list that the lumber company had anything to do with it?

Commissioner Harlan: The lumber company, logging company or railroad company.

Mr. Frost: I will furnish that information.

Commissioner Harlan: Or the store that you operate; any movement for the general investment here, if it is embraced in this list, we want to know about it.

Mr. Frost: Yes, sir.

Commissioner Harlan: According to the next statement, your total passenger revenues for the year ending June 30th,
5482 1910, were $322; miscellaneous revenue $2,788.25. What does that item embrace, miscellaneous revenues?

Mr. Frost: That would be all the earnings except the passenger earnings there.

Commissioner Harlan: Do you mean express matter, for instance, and mail, and that kind of matter?

Mr. Frost: We do not carry the express.

Commissioner Harlan: Well, that is quite a substantial item, and can you give us no clew to its meaning.

Mr. Frost: They have a contract with the lumber company, or they had a contract in effect when we bought it, and they leased the cars to the lumber company, or——

Commissioner Harlan: The railroad company leased the cars to the lumber company.

Mr. Frost: For a certain rental each year.

Commissioner Harlan: What was that rental?

Mr. Frost: I don't remember just what the amount was.

Commissioner Harlan: You have the contract, have you?

Mr. Frost: Yes, sir. That was turned over to us, and we have simply carried out the original contracts that they had.

Commissioner Harlan: And you rent the cars to the lumber company now just for what use?

5483 Mr. Frost: Logging cars for operating their logging trains only.

Commissioner Harlan: On the logging roads?

Mr. Frost: Yes, sir.

Commissioner Harlan: Or do they operate their trains on your line?

Mr. Frost: The railroad company leased these logging cars, 53 cars, I think, to the lumber company for the purpose of hauling logs and they operate that train into the mill over the Nacogdoches & Southeastern rails.

Commissioner Harlan: The lumber company operates the train?

Mr. Frost: Yes, sir, under trackage rental, so much a year.

Commissioner Harlan: Can you let us have a copy of that contract?

Mr. Frost: Yes, sir.

Commissioner Harlan: You think that explains this item of miscellaneous revenues?

Mr. Frost: I think that is part of the revenue, yes, sir.

Commissioner Harlan: What else is there in there, is there any demurrage?

Mr. Frost: Demurrage is carried in that, the item of de-
5484 murrage would be in that. The railroad company charges the lumber company demurrage on the cars that they hold overtime.

Commissioner Harlan: What is the character of this passenger traffic, is it largely made up of employés of the lumber company?

Mr. Frost: No, sir, it is not. The logging company employés are about the only employés that work for the lumber company in any way or the logging company, and I think they have a right to go out on the logging train. If they come on that train they pay their fare.

Commissioner Harlan: If they get on your combination coach they pay their fare?

Mr. Frost: Yes, sir.

Commissioner Harlan: But if they operate this train over your line they do not pay anything?

Mr. Frost: If they get on the logging train?

Commissioner Harlan: Yes.

Mr. Frost: I think that they allow some of the employés the right on that logging train, to operate it.

Commissioner Harlan: What passenger traffic have you other than your employés of some of the allied interests.

Mr. Frost: Take people living out along the line, four
5485 or five stores.

Commissioner Harlan: Are there such?

Mr. Frost: Yes, sir, farmers, and there are four or five stores at Woden. There is a list of them filed.

Commissioner Harlan: Is Woden a company town also?

Mr. Frost: No.

Commissioner Harlan: That was an old settlement?

Mr. Frost: I could not say how old it was. There are four or five stores.

Commissioner Harlan: Do you run a store there?

Mr. Frost: No, we have no store there. It is just a little country town.

Commissioner Harlan: A post office?

Mr. Frost: They have a post office there.

Commissioner Harlan: Your total revenues, according to this document were $13,000 plus, and your total operating expenses approximately $17,000, showing a percentage of operating expenses to operating revenue of 121.21. Was there an accumulated deficit in the accounts of the railroad company when you took it over from the Haywood people?

Mr. Frost: I do not think so. They probably owed a small amount, but it did not amount to very much.

5486 Commissioner Harlan: Well, there was a deficit for this year. Did that require you to go anywhere for cash?

Mr. Frost: Yes, sir, we owe the bank, the railroad company owes the Nacogdoches Bank for practically the same amount that they are short there, or did.

Commissioner Harlan: Is the indebtedness represented by a note held by that bank?

Mr. Frost: It is an overdraft that they have run with the local bank there, and they have handled their accounts separately, and have their own bank.

Commissioner Harlan: How long has it been carried as an overdraft?

Mr. Frost: Probably two or three months.

Commissioner Harlan: Are you a guarantor on that overdraft?

Mr. Frost: Yes, sir.

Commissioner Harlan: And the lumber company also?

Mr. Frost: The lumber company would guarantee the account or does guarantee it.

Commissioner Harlan: And it is so understood at the bank?

Mr. Frost: Well, yes, sir, it is understood that we would guarantee the account.

Commissioner Harlan: So in this short time the lumber
5487 company has furnished the railroad company in this way of credit with the necessary cash to conduct its operations?

Mr. Frost: Yes, sir. That overdraft——

Commissioner Harlan: Now you have here an item of some $4,000 for maintenance of equipment. What equipment is embraced in that account?

Mr. Frost: The list I just read, two locomotives and——

Commissioner Harlan: Does it include the logging cars?

Mr. Frost: 53 logging cars and five box cars——

Commissioner Harlan: And the logging cars are maintained then by the railroad company?

Mr. Frost: The lumber company keeps up the cars.

Commissioner Harlan: What do you mean by the maintenance of equipment here? I understood you to say it embraced the equipment mentioned on the previous statement.

Mr. Frost: The maintenance?

Commissioner Harlan: Yes.

Mr. Frost: That is what is costs the railroad company to keep up their own equipment.

Commissioner Harlan: And the logging car equipment is kept up by whom?

Mr. Frost: By the logging company or lumber company.

5488 Commissioner Harlan: Do you lease one of your locomotives to the logging company?

Mr. Frost: The railroad company, I think, has leased two locomotives to the lumber company.

Commissioner Harlan: So that the lumber company looks after the maintenance of that part of your equipment also?

Mr. Frost: I think so.

Commissioner Harlan: And it leaves the combination car and the refrigerator car—do you have a refrigerator car?

Mr. Frost: Well, it is listed as a refrigerator car, yes, sir.

Commissioner Harlan: What is it used for?

Mr. Frost: I do not know what they use it for. We used it to haul freight in. It was there when we bought the property.

Commissioner Harlan: Do you use it to haul fresh meat to the camps and supplies?

Mr. Frost: We would haul anything in it if we needed to haul it out there.

Commissioner Harlan: How many cars are left for the railroad company to look out for, the passenger coach and refrigerator car?

Mr. Frost: And the box cars and flat cars.

5489 Commissioner Harlan: Five box cars and two flat cars?

Mr. Frost: Yes, sir.

Commissioner Harlan: And it costs you $4200 a year in the way of maintenance?

Mr. Frost: That probably includes the cost of overhauling the locomotive during the latter part of last year.

Commissioner Harlan: Before you rented it to the logging company?

Mr. Frost: No, the railroad locomotive.

Commissioner Harlan: I understood you to say you had rented both your locomotives to the logging company?

Mr. Frost: No, the railroad company retains—they have two locomotives they use in their own service, and they overhauled one of those during the fall and that made that item show heavy, I think is the way that came up.

Commissioner Harlan: Have you rented any locomotives to the logging company?

Mr. Frost: They rent it to the lumber company, and the lumber company lets the logging company use them. That shows in the contract.

Commissioner Harlan: By whom was that locomotive overhauled by you or the lumber company?

5490 Mr. Frost: Well, if it was a railroad company locomotive the cost of repairing that was borne by the railroad company. If it was one of the locomotives that they leased to the lumber company, it was borne by the lumber company or the logging company.

Commissioner Harlan: I would like to get this accurately, and I am not sure that I have it. In this document you list your equipment, I mean the equipment of the railroad company, and among other things you show two locomotives. Now do you own any other locomotives than these two? I am now talking about the railroad company.

Mr. Frost: I am not familiar with just how many locomotives they had, and I am going by just what the statement says, and the contract with the lumber company.

Commissioner Harlan: Do you know whether the railroad company is using two locomotives now?

Mr. Frost: Yes, sir, they only use one, and they have one in case of emergency which they can use.

Commissioner Harlan: Do you know whether the lumber company is using any locomotives exclusively of the lumber line?

Mr. Frost: The lumber company uses a locomotive to haul

5491 logs in on the main line, and then the logging company used a locomotive out in the woods to bring the logs to the main line.

Commissioner Harlan: You do not know whose locomotive that is?

Mr. Frost: In the woods?

Commissioner Harlan: Yes.

Mr. Frost: It belongs to the lumber company.

Commissioner Harlan: What is the total mileage of the logging spurs that make junction with your railroad company?

Mr. Frost: I do not know just how many miles they have. This last six miles has just been completed, and they probably had 10 or 15 miles of other track prior to the purchase of that six miles of steel.

Commissioner Harlan: Who looks after the maintenance of that mileage?

Mr. Frost: The logging company.

Commissioner Harlan: Including the six miles that will ultimately be a part of your line?

Mr. Frost: The lumber company built that six miles and unless it is turned over to the railroad company the logging company will keep it up, under their contract with the lumber company.

5492 That might be changed.

Commissioner Harlan: Have you anything here indicating the cost of overhauling that locomotive?

Mr. Frost: No.

Commissioner Harlan: Do you know what it was?

Mr. Frost: Well, they overhauled one some time after we purchased the plant, and I say that was included in that large item, but I do not know and I could not say about that.

Commissioner Harlan: I note on another document that you have four stations listed, one called McClures, another Woden, another Dockville and another Oil City. Are they all on your line?

Mr. Frost: Yes, sir.

Commissioner Harlan: Which is the most distant station from Nacogdoches?

Mr. Frost: Oil City; that will be on the new extension.

Commissioner Harlan: So they are listed here in their order from Nacogdoches?

Mr. Frost: Yes, sir.

Commissioner Harlan: Tell us about McClures, what sort of town is that?

Mr. Frost: That is just a side track, flag station

5493 Commissioner Harlan: No post office and no settlement?

Mr. Frost: No, sir.

Commissioner Harlan: You indicate on this document that there is a J. J. Smith Lumber Company at McClures.

Mr. Frost: Well, the mill is there right near the siding that he hauls his lumber in.

Commissioner Harlan: Is that a hardwood mill?

Mr. Frost: Well, he cuts pine and hardwood, or did.

Commissioner Harlan: From your lands?

Mr. Frost: No, sir, not from our lands.

Commissioner Harlan: Do you haul anything for that company?

Mr. Frost: Well, if they have anything to haul we do, yes, sir.

Commissioner Harlan: Well, do they have anything to haul as far as you know?

Mr. Frost: Well, that list of lumber, 25 or 50 cars there, I presume came from those mills.

Commissioner Harlan: What about the town of Woden?
Mr. Frost: They have four or five stores there.
Commissioner Harlan: And Dockville.
Mr. Frost: That is a siding.
Commissioner Harlan: Is there a Nacogdoches Lumber
5494 Company?
Mr. Frost: Yes.
Commissioner Harlan: What relation has that to the Frost-Johnson Lumber Company?
Mr. Frost: We practically own it.
Commissioner Harlan: Is that the company that does the logging of your forests?
Mr. Frost: Yes, sir.
Commissioner Harlan: What about Oil City, how far is that from Nacogdoches?
Mr. Frost: I think that is about the 18th or 20th mile.
Commissioner Harlan: Then it must be on this new line?
Mr. Frost: I just stated it was on the new extension.
Commissioner Harlan: So your railroad has not reached that point?
Mr. Frost: No, sir, the main line has not.
Commissioner Harlan: How did these two carloads of oil reach your line if as you seem to think it came from Oil City?
Mr. Frost: I could not say that it came from Oil City; I do not know where they got that. That might have been for the company use; but I say I will have to file that information.
Commissioner Harlan: Is Dockville on the six miles, or on
5495 your own main line?
Mr. Frost: That is on the main line.
Commissioner Harlan: That is the terminus?
Mr. Frost: Yes.
Commissioner Harlan: On the next statement for the same fiscal year you have some figures at the top which I do not quite understand. One is total revenue from lumber. What is that amount?
Mr. Frost: $4,884.
Commissioner Harlan: What is the meaning of that figure?
Mr. Frost: That is the amount that was allowed for the lumber that we handled; the revenue from the lumber of the lumber company was $4,553 and the revenue that we derived from other shippers was $330.
Mr. Gaughan: Was that revenue from lumber from other shippers?
Mr. Frost: Lumber from other shippers.
Commissioner Harlan: What haul do you have on lumber?
Mr. Frost: We hauled that from those small mills out on the line probably 10 or 12 miles; but the lumber from the plant there at the mill is switched out and sent over to the Texas & New Orleans, and I do not suppose that we handled that a distance of over
5496 a quarter of a mile.
Commissioner Harlan: Well, do you place the cars on the interchange track?

Mr. Frost: Yes, sir, they set the empties on the interchange, and we pick them up and put them over to the loading track, and then they are switched out by our crew and they weigh them and set them back on the interchange track, the track that we have to deliver the loads on.

Commissioner Harlan: And what compensation do you receive for that service?

Mr. Frost: We get a division all the way from one to as high as four cents.

Commissioner Harlan: What is the highest division you have received?

Mr. Frost: Four cents.

Commissioner Harlan: You have several times referred to that as a switching movement. Do you so regard it?

Mr. Frost: Well, we figure that that covers the hauling of those logs from the forest to the mill, and then taking out the finished product and delivering it to the main line.

Commissioner Harlan: That is to say you haul the logs from the forest to the mill and that is a haul, and then when you take
5497 hold of the car that has the lumber in it, you regard that as a switching movement?

Mr. Frost: It is part of the service and covers the whole proposition.

Commissioner Harlan: It is part of the service, and you are paid for it, I understand that; but it is like an ordinary switching service, is it not?

Mr. Frost: Well, that part of it is; but I figure that the hauling from the forest to the mill and then the switching of the load out and hauling them over to the T. & N. O. is practically all the same, and is to be considered as one service.

Commissioner Harlan: For which you receive one compensation?

Mr. Frost: That is all.

Commissioner Harlan: What is the character of the rate which is applied to this haul on the logs by you?

Mr. Frost: Well, under this contract which was in effect when we bought that property, the lumber company pays so much a year rental for all that service, and it is not remunerative for the service that they get; that is, it is more of a nominal charge, probably $1,000 or $1,500 a year.

Commissioner Harlan: Don't you know what it is?

5498 Mr. Frost: I don't remember; that is in the contract. That contract I did not make. It was made and in effect when I bought the property.

Commissioner Harlan: Then you receive nothing directly from the lumber company, you do not haul its logs?

Mr. Frost: No, they operate that logging train under this contract, but the lumber company pays the railroad company a certain amount. I do not remember what that is.

Commissioner Harlan: Well, you regard it as a fair compensation for the privilege you have given them?

Mr. Frost: Well, taking into consideration the cost of the road, you could hardly count it a reasonable compensation.

Commissioner Harlan: Well, where they do all the work?

Mr. Frost: Well, we have to keep up the track. The railroad company keeps up the track.

Commissioner Harlan: So you actually have no haul of logs yourself?

Mr. Frost: The railroad company does not haul the logs.

Commissioner Harlan: Then why do you say that the division of one to four cents is for something more than the switching movement of the lumber to the interchange track.

Mr. Frost: Well, we have got a railroad there and we feel
5499 that we are entitled to something, a reasonable return on the investment.

Commissioner Harlan: But there is no actual railroad service performed by you?

Mr. Frost: Not on the logs, not hauling the logs except we furnish the track that they are hauled over.

Commissioner Harlan: I ask you again what is the character of the rate under which you get that division, is it a milling in transit rate?

Mr. Frost: Well now, I am not a rate man. I understand that the trunk lines figure that that is allowed on the proposition that the logs come from the forests, and they are milled, and then the lumber is hauled out by the railroad and delivered to the trunk line. I am not a rate man and I am not very familiar with it.

Commissioner Harlan: Is there anyone here that knows about the rates?

Mr. Frost: Well, the tariff would show.

Commissioner Harlan: You do not know?

Mr. Frost: I do not know.

Commissioner Harlan: Has your line since you acquired it, concurred in any new tariffs or published any new tariffs?

5500 Mr. Frost: That has been handled altogether by a man we have employed at Nacogdoches to handle that part of the business, and——

Commissioner Harlan: Well, do you know what the fact is, have you published or concurred in any new tariffs or are the tariffs which were in effect when your predecessor had control of the road, still in effect?

M. Frost: It is just like it was when we took it over. We have run the business right along as it had been, so far as I know, and if there were any tariffs to be filed from time to time, this man is there to look after it, and I presume he does; that is his only business, to look after the freight and the traffic handled by the railroad, and he does not work for the lumber company and is not on the payrolls, and does not devote any of his time to the lumber company business. All of his time is consumed by the railroad.

Commissioner Harlan: Coming back for a moment to this list you lease to the lumber company the right to run its trains over your track to the mill, and you get from $1,000 to $1,500 a year from the lumber company. You are not quite sure what the amount is.

Mr. Frost: I do not know, that is a guess; I do not know
5501 what it is. It is in the contract which was made prior to our purchase of the company.

Commissioner Harlan: Well, it is within those limits?

Mr. Frost: I do not know what the amount is.

Commissioner Harlan: You said a little while ago that you did not think the amount was reasonable.

Mr. Frost: No, I do not think it is enough to show any earning on the property for the reason we have not made any money. That is one reason, I figure, why it is not remunerative.

Commissioner Harlan: Do you think you have the right to rent your track and your facilities to a shipper for less than it is reasonably worth?

Mr. Frost: You see, that is something I had no control over. That contract was made there by the other people and I did not have anything to do with it.

Commissioner Harlan: But if the same interests own the railroad company that own the lumber company, you can annul that contract, can you not?

Mr. Frost: We can.

Commissioner Harlan: Then I put the question, is it a right use of its property for a railroad company to rent the property
5502 out for less than it is reasonably worth?

Mr. Frost: Well, that depends on what they expect to get.

Commissioner Harlan: Well, for what they do get. You know what they do get, and you know what the rent is, or about what it is, and you said it was not reasonable, and now I ask you, is it a proper use by a railroad company of its property to give to the larger shipper over its line the use of its facilities at less than those facilities are reasonably worth.

Mr. Frost: If they make a low rate on the logs in, and they control the tonnage and they get the revenue on the lumber out, I would say that that was all right.

Commissioner Harlan: You are satisfied with the arrangement?

Mr. Frost: Yes, sir, so long as we get the divisions on the lumber out we are satisfied.

Commissioner Harlan: That is to say, you give your facilities to a shipper for less than they are worth, because the railroad company gives you a division that covers satisfactorily that part of the value of your property?

Mr. Frost: Well, it is practically the same thing that the trunk lines put into effect when they make a rate on rough material to go
5503 to a factory to be milled, and where that same road gets the finished product out; that is the way I look at it. In other words, the trunk line will make you a very low rate on rough material if it goes to a point where they get the finished product out.

Commissioner Harlan: Well, the trunk line would not do that except under a published tariff that was available to all shippers.

Mr. Frost: We will be glad to file our contract with the Commission, and it has probably been filed. I do not know that the Hay-

wood people have ever filed that contract with the Interstate Commerce Commission, but we will file it.

Commissioner Harlan: Do you mean to say you will give anybody the right to run their trains over your line with a load of logs on a rental just as you do your own lumber company?

Mr. Frost: Well, if the conditions were exactly the same we might do that.

Commissioner Harlan: How is this rental paid, is it a gross sum per year or on the basis of train haul or car haul?

Mr. Frost: It is so much per year or so much per month; I do not think they have figured it out on a train mile basis at all. It is so much per month or per year.

5504 Commissioner Harlan: You have listed a lumber company at one of these points on your line at McClures, that is a station just outside of Nacogdoches. Assuming that it does really ship lumber it must also get some logs over your line?

Mr. Frost: No, they are hauled in there on wagons right close to the mill; it is a small mill, and they are hauled in with their own teams.

Commissioner Harlan: Do you haul logs for anyone over your line?

Mr. Frost: I do not know. We would.

Commissioner Harlan: There is no one there to haul logs to?

Mr. Frost: No, except those small mills, and they haul logs in there off of small tracts of timber.

Mr. Gaughan: There are a lot of ash logs carried, I believe.

Commissioner Harlan: I have here what purports to be a tariff issue under the authority of the Railroad Commission of Texas, called Supplement No. 2, to local freight tariff No. 500, governing movement of freight locally between points on the Nacogdoches & Southeastern, and it shows that effective November 1st, 1905,

5505 pine logs in train loads of ten or more cars, when transported 15 miles or less, between points, takes the rate of $2.00 a car. Is that tariff still in effect over your line?

Mr. Frost: I could not say.

Commissioner Harlan: You do not know what your rate schedules are?

Mr. Frost: No, sir, I do not.

Commissioner Harlan: And there is no one here that does?

Mr. Frost: Nobody here, no, sir.

Commissioner Harlan: Let that be marked.

(The paper so offered and identified, was received in evidence and thereupon marked Nacogdoches & Southeastern Exhibit No. 2, Witness Frost, received in evidence January 27, 1911, and is attached hereto.)

Commissioner Harlan: Here is Supplement No. 1 of the same freight tariff, which shows on the same date an effective rate of $5.00 a car applicable as follows: Merchandise in carloads when transported distances not exceeding 8 miles, between points, to meet wagon competition. Is that tariff in effect over your rails?

Mr. Frost: I do not know; that is handled by the traffic man down there. It is authorized under the Commission's rule.
5506 I believe.

Mr. Walter: What was the number of the tariff?

Commissioner Harlan: Railroad Commission 2,353.

Mr. Frost: Is that authorized by the State Commission?

Commissioner Harlan: Yes. Let it be marked.

(The paper so offered and identified, was received in evidence and thereupon marked Nacogdoches & Southeastern Exhibit No. 3, Witness Frost, received in evidence January 27, 1911, and is attached hereto.)

Commissioner Harlan: What is your relation to this railroad?

Mr. Frost: I am president.

Commissioner Harlan: Are you familiar with its books to some extent?

Mr. Frost: I get a statement from them at the end of the month, but I do not go into those details.

Commissioner Harlan: You have given a statement here of your miscellaneous revenue and your merchandise shipments. I would like to ask you whether that tariff of $5.00 a car is applied on these merchandise shipments in and out.

Mr. Frost: I could not say about that. I do not know just how that is handled. It is handled by the traffic man there at
5507 Mansfield.

Commissioner Harlan: I have Supplement No. 3 to the same local freight tariff issued under the authority of the State Commission, effective September 1st, 1906, showing a rate of $12.00 a car on pine ties in carloads for distances of 12 miles or less between points on your line. You do not know whether that is in effect now?

Mr. Frost: It might or might not be.

Commissioner Harlan: Or whether it has been applied to these tie movements shown on your exhibit?

Mr. Frost: If it has never been cancelled, I presume that is the rate applied.

Commissioner Harlan: Let that be marked.

(The paper so offered and identified, was received in evidence and thereupon marked Nacogdoches & Southeastern Exhibit No. 4, Witness Frost, received in evidence January 27, 1911, and is attached hereto.)

Commissioner Harlan: Do you know whether the through lumber rate was applied on those pine ties shipped by other interests?

Mr. Frost: No, sir.

Commissioner Harlan: There is no one here that knows about these matters?

5508 Mr. Frost: No, sir. They have either been handled on that tariff or on some supplement, though.

Commissioner Harlan: Well, if you as President of the road have not had occasion to talk with your freight traffic manager about new rates, I suppose it is fair to assume that these rates are still in effect, is it not?

Mr. Frost: Unless they have been cancelled by authority of the State Commission they are in effect.

Commissioner Harlan: And you have not heard of any change of rates?

Mr. Frost: No, sir, and he would not violate those rules; that is, I have every reason to believe he would not.

Mr. Cowan: I suggest the annual reports to the Texas Commission would be able to show all the cancellations.

Mr. Frost: He files a report with the Texas Commission.

Commissioner Harlan: Have you filed this contract or agreement with the Texas Commission?

Mr. Frost: I do not know whether that was filed or not.

Commissioner Harlan: I find on one of these documents a statement to the effect that 93.2 per cent of your total lumber revenue is from your lumber company.

Mr. Frost: That is just lumber tonnage.

5509 Commissioner Harlan: And that the percentage of lumber tonnage to the total tonnage is 87.93 per cent.

Mr. Frost: I think that is right.

Commissioner Harlan: That percentage might be substantially increased, that is the percentage of tonnage in which your allied interests are interested would be materially increased if it should appear that some of this merchandise, oil and coal and hay and live stock and other things, were moved for the allied interests.

Mr. Frost: Those figures of percentage there apply to lumber only. I have the percentage of all the freight.

Commissioner Harlan: Judge Cowan, have you any questions you wish to ask?

Mr. Cowan: Yes. Mr. Frost, what service does the railroad company in this case perform with respect to the logs, any?

Mr. Frost: They furnish the track and keep it up. They do not operate the train.

Mr. Cowan: And the service in regard to the lumber you have described as being a movement by the railroad.

Mr. Frost: Yes.

Mr. Cowan: And that is the only service the railroad company performs so far as operation is concerned?

5510 Mr. Frost: So far as operation is concerned it is.

Mr. Cowan: What is the use of the railroad company owning a track that it does not use? Why not just let the mill company own it and lease it to the logging company?

Mr. Frost: They own the track and get the tonnage, and it also furnishes a market for the timber in the territory it reaches.

Mr. Cowan: That would be the case also if the lumber company owned the track.

Mr. Frost: If the lumber company owned the track, it might.

Mr. Cowan: Did the lumber company at any time own the track?

Mr. Frost: I do not know.

Mr. Cowan: I mean the railroad track. How much timber land or timber have you in that vicinity?

Mr. Frost: Something like about 40,000 acres, I think, between 36,000 and 40,000 now.

Mr. Cowan: Uncut?

Mr. Frost: Some of that has been cut.

Mr. Cowan: How many years do you figure the operation will last at the present rate of cutting?

Mr. Frost: Well, that depends.

5511 Mr. Cowan: I say at the present rate of cutting.

Mr. Frost: It depends on how much more timber we can buy in that territory.

Mr. Cowan: I mean, supposing you bought no more, how long would it last?

Mr. Frost: You want to know how much timber our company owns in that county, is that it?

Mr. Cowan: As a general proposition.

Mr. Frost: We bought from the Haywood Lumber Company practically 270,000,000 feet.

Mr. Cowan: About how many years will that cutting last probably?

Mr. Frost: Well, we cut about 100,000 feet a day, it is a two band mill.

Mr. Cowan: I thought you might state about how many years it would last?

Mr. Frost: Well, I would say 10 years, maybe 12.

Mr. Cowan: Are there mills in that part of the country operating their own logging operations?

Mr. Frost: Other mills?

Mr. Cowan: Other mills by railroad?

Mr. Frost: Yes, sir, one.

5512 Mr. Cowan: And are there other such mills that do not get divisions, that is to say, the railroads they own do not get divisions?

Mr. Frost: There are two small mills on our line, the Angelina County Lumber Company at Keltys own quite a lot of timber mixed in with our holdings.

Mr. Cowan: Do they get divisions of the rates?

Mr. Frost: The Angelina County Lumber Company?

Mr. Cowan: You have testified that they do.

Mr. Frost: The railroad company might.

Mr. Walter: The Angelina & Neches River.

Mr. Frost: I do not know whether they do or not.

Mr. Cowan: These men on your line, of course, do not get any divisions.

Mr. Frost: No.

Mr. Cowan: You haul their lumber and do get a division out of that.

Mr. Frost: Yes, sir. We perform the service and get the same division there that we do on the other lumber.

Mr. Cowan: Well, is the Angelina County Lumber Company's tonnage one that is in prospect, that you expect to get, or not.

5513 Mr. Frost: Well, I do not like to answer that question.

Mr. Cowan: I am not trying to find out the business proposition, but I mean will your railroad tap their timber so that probably you will handle it.

Mr. Frost: Their timber, a great deal of it, is mixed in with our holdings, it is tributary of course, to our line. We might cut some of it and we might not.

Mr. Cowan: If they operate their mill with a railroad to handle their timber, they have got to be at the expense of hauling it by rail to their mill, of course.

Mr. Frost: Yes, sir.

Mr. Cowan: Or do the other thing, pay you.

Mr. Frost: We could not haul it for them. We have no track to their mill. Their mill is 25 miles away.

Mr. Cowan: Can a saw mill be operated successfully in that part of the country for an extensive operation except by the use of a railroad in that way?

Mr. Frost: You cannot operate any large saw mill without a large investment in railroad facilities.

Mr. Cowan: When you contemplated these various investments, this one as well as others you made, did you not regard the entire plant necessary for the operation as practically a single in-
5514 vestment of capital?

Mr. Frost: We took all the property into consideration and of course we could not have bought the railroad without the mill, or the mill without the railroad. I do not suppose the Haywood people would have sold it in that way. They made a price on the entire property, including the stock of the Nacogdoches & Southeastern. That is the way we closed the deal, on that basis.

Mr. Cowan: The necessity of hauling the logs to the mill by rail is exactly as important as making them up from the pond to the saw carrier, is it not?

Mr. Frost: No, a fellow that has a railroad and operates it has a great deal more expense than the small operators with the mill out in the timber.

Mr. Cowan: Well, you did not understand my question. The necessity of the movement of the logs by rail from the woods to the mill is exactly as important as the movement from the pond to the saw mill.

Mr. Frost: You have got to haul them on a railroad. It is impracticable to haul them any other way.

Commissioner Harlan: To go back to a question Judge Cowan touched upon, some of the Texas mills as he stated, do not
5515 receive allowances, and apparently there was one he had in mind near your mill, is not that so? Now in negotiating for the purchase of such a mill property and a railroad attached to it, and the forest attached to it, would you not take into consideration whether allowances were paid or not by the regular lines to the rail line that is owned by the mill?

Mr. Frost: That would probably be taken into consideration; a great many things are to be taken into consideration in purchasing the timber.

Commissioner Harlan: That is one of them, is it not?

Mr. Frost: It might enter into it.

Commissioner Harlan: In the purchase of these properties you

say it might enter into it. Did it not enter into it in your mind when you purchased this Haywood property?

Mr. Frost: We certainly figured that we got some value there in the railroad.

Commissioner Harlan: And some value in the divisions accorded to the railroad by the regular lines?

Mr. Frost: Yes, sir.

Commissioner Harlan: And that was a substantial element?

Mr. Frost: That was one of the considerations.

5516 Commissioner Harlan: So that you could afford to give more for such property, allowances being received, than you could if for a similar property that got no allowance.

Mr. Frost: Well, this timber when we bought that plant was 15 miles to the edge——

Commissioner Harlan: Just answer the question. That surely is true, is it not, that you could afford, two properties being substantially similar, to give more for the property where the railroad got an allowance than property where the tap line did not get any allowance.

Mr. Frost: Well, we had to take the railroad, and of course——

Commissioner Harlan: I am not talking now, Mr. Frost, about any given case or particularly this case; I am putting to you simply the hypothetical question.

Mr. Frost: Well, I would like to answer that in my own way.

Commissioner Harlan: Very well, go ahead.

Mr. Frost: As I said, we had to buy the railroad in order to get the other property, but I think that we would have preferred to have bought the timber and the plant and let somebody else own the railroad under the same conditions, because as the statement

5517 shows, we have not made anything on that part of the investment.

Commissioner Harlan: Do you mean to say you would buy a mill and a large acreage of timber land that had no railroad, or buy it with the expectation of lumbering it without yourselves building a railroad on it?

Mr. Frost: I know of a plant that was bought and the logs hauled over another man's railroad. The railroad was sold and the timber was out 30 or 40 miles possibly, from that mill, and the original builders sold that railroad to the trunk line and hauled the logs over it.

Commissioner Harlan: Would you not give less for the timber of a man who has to have his logs hauled over a railroad belonging to someone else than you would for the timber of a man who has a railroad of his own and divisions on that railroad.

Mr. Frost: That is a hard question to answer unless you know the conditions or the block of timber. The same conditions might not exist at both propositions.

Commissioner Harlan: Well, in this particular purchase did you give less for the Haywood property because it had a railroad attached to it with divisions than you would have given for it if it had

5518 no railroad attached to it and no divisions?

Mr. Frost: Did we give less——

Commissioner Harlan: Is the property worth more—well, I will not pursue that line of inquiry. It is a proposition which any one should consider perhaps. You say you are making up a connection with the Houston, East & West Texas at Nacogdoches.

Mr. Frost: That track is built within 200 or 300 feet of the Houston, East & West Texas track downtown, but the connection has not been made.

Commissioner Harlan: When was it built?

Mr. Frost: I do not know, it was built when we bought it.

Commissioner Harlan: You found it there in that condition?

Mr. Frost: It was there when we bought the property. We have not added anything to it. We have had it up with the Houston, East & West Texas people and have figured on making the connection, but we have not so far. We have not added anything to it.

Commissioner Harlan: Have you arrived at any agreement with them?

Mr. Frost: Not yet.

Commissioner Harlan: The basis of the connection is
5519 what, what is the difficulty?

Mr. Frost: There is trouble in getting the track in to make the connection. We have not ground enough.

Commissioner Harlan: Physical difficulties?

Mr. Frost: Physical troubles.

Commissioner Harlan: Have you had any understanding with them with respect to divisions after the connections have been made, if they can be made?

Mr. Frost: No, sir.

Commissioner Harlan: You will not make the connection unless you can get divisions allowed?

Mr. Frost: Well, I do not know, we might make the connections. You see the Houston, East & West Texas is owned, as I understand it, by the same people as the T. & N. O. We might make a connection down there for convenience; it would save us a good deal of delay.

Commissioner Harlan: But it would not be convenient without divisions to ship much of your tonnage over that outlet, would it?

Mr. Frost: Well, if we had that connection we might get the divisions.

Mr. Cowan: Do you have to do with the matter of manag-
5520 ing the sales department of your company?

Mr. Frost: Well, Mr. Johnson looks more after the selling of our lumber. I have always been at the mill until a few years ago they let me move to town, and since that time we have had a sales office at Shreveport. We handle some of the lumber from that point, but Mr. Johnson handles the majority of it through the St. Louis office and the Chicago office.

Mr. Cowan: Taking your Texas mill, to what points mainly does your traffic go?

Mr. Frost: It goes all over the state.

Mr. Cowan: Do you also ship interstate?

Mr. Frost: Yes, sir.

Mr. Cowan: And to what points mainly.

Mr. Frost: Any point that we can get it. If we have the lumber and the order fits the stock it goes to the mill.

Mr. Cowan: I did not know, you might tell us where your market mostly is for the interstate traffic, from that mill.

Mr. Frost: It would naturally go into Oklahoma and Missouri and Kansas and Nebraska.

Mr. Cowan: What division do you get on the interstate movement to Oklahoma?

Mr. Frost: I don't know exactly what we get on the inter-
5521 state. The division sheet shows for itself. It runs all the way from one cent up to three cents, I think, on interstate business.

Mr. Cowan: What is your opinion as to whether or not the fact of being allowed a tap line division, take the Texas mill, which is an important one. Do you know that in Texas there are a number of mills that get tap line divisions, that is to say, the railroad they own gets tap line divisions, and there are a number of equally important mills which do not get tap line divisions, that is a fact, is it not?

Mr. Frost: I do not know. I know we get the divisions I have stated on this particualr plant, but there might be others that get the same thing or more. I am not very familiar with the other operator's business. I could not say positively.

Mr. Cowan: Well, I thought you knew that to be a fact. It has been shown in this record.

Mr. Frost: Well——

Mr. Cowan: I will assume that to be a fact. Assuming that is a fact and that these mills have to be operated as you state practically by railroads as a plant facility—you did not use that term but I did.

5522 Mr. Walter: That is an assumption too.

Mr. Cowan: Well, he testified to that, that you had to operate them with a railroad.

Commissioner Harlan: We will have to get this question started all over again.

Mr. Cowan: Assuming that half the mills in Texas operate their mills by a railroad somewhat similar to what you do, but do not get tap line divisions, and half the mills in Texas operate their logging operations without divisions, and half get divisions and half do not, what is your opinion as to whether those who get divisions have an advantage in the market and in the operation of their business as against those who do not get them.

Mr. Frost: Well, you take two propositions identically the same, the timber purchased under the same conditions and in similar territory, and if one man gets a division and the other man does not get a division, there might be some difference but if one man has a railroad and sets himself up as a common carrier and has to go to the expense of keeping that up and complying with the laws, that division does not go to the lumber company but to the railroad company.

Mr. Cowan: You are the president of both companies, I
5523 believe, in this case.

Mr. Frost: Yes, sir.

Mr. Cowan: And the ownership is the same. What difference does it make in the end when the dividends from both concerns go into the same pocket.

Mr. Frost: We never got any dividends.

Mr. Cowan: Neither from the saw mill nor the railroad?

Mr. Frost: Not yet.

Mr. Cowan: Then what difference does it make if the same pocket must furnish the money to pay the deficits?

Mr. Frost: They are separate corporations. The railroad company down there or the stock of that company belongs to the Frost-Johnson Lumber Company.

Mr. Cowan: I understand that, but I am asking you what difference it makes whether they are separate corporations or not if at last the money must go or come from the same individual pocket.

Mr. Frost: Well, we have a railroad down there, and we have to comply with the laws and we have to keep up the railroad and have to run that train whether it earns any money or not, and this division goes to that railroad. Now if we only had logging spurs,
5524 if the Frost-Johnson Lumber Company's mill was located out at Oil City where there are nothing but spurs running out, then those logging spurs would not be entitled to any division, but the railroad company would be entitled to a division. It is a different proposition.

Commissioner Harlan: Is it your theory that these railroads are all conducted at a loss or ordinarily are conducted at a loss?

Mr. Frost: Well, this one is so far.

Commissioner Harlan: You think you would be better off if it were not a common carrier?

Mr. Frost: Well, it might be different conditions in there.

Commissioner Harlan: Well, I am talking about the same conditions, about the conditions confronting you. If it is such a disadvantage to operate under the law as you use that phrase, why do you do it, why do you incorporate your roads.

Mr. Frost: If this railroad were not allowed a division that mill would never have been built at that point; it would have been built out in the woods.

Commissioner Harlan: So that that division does contribute to the operation of the mill and the location of the mill and everything else.

Mr. Frost: Well——

5525 Commissioner Harlan: Just as a plain practical matter is not that the way it works out.

Mr. Frost: Well, of course they are closely allied companies, and while they are separate corporations——

Commissioner Harlan: We understand that, but we are talking about the effect of the division. You have spoken of the burdens in complying with the law. Now I put the question to you, if those burdens run into items of expense, why do you do it, why do you become a common carrier?

Mr. Frost: We become a common carrier expecting to get some compensation for the money that we invest in the railroad——

Commissioner Harlan: Is not the compensation more than the disadvantages of complying with the law?

Mr. Frost: Well, they might not be, or they might. But we might be making a common carrier out of it to develop the territory out there, and thereby sell the railroad by the time we got through cutting the timber, whereas it would not develop the country if we did not make it a common carrier.

Mr. Walter: In that country through there, Mr. Frost, all along that line of railroad out to Dockville, can you state whether
5526 or not you operate trains as a railroad company independent of these logging trains?

Mr. Frost: Yes, sir.

Mr. Walter: Haul traffic for anybody that offers it?

Mr. Frost: Yes, sir.

Mr. Walter: And under equal conditions to everybody who offers the traffic?

Mr. Frost: Yes, sir.

Mr. Walter: I believe you stated in your statement some ash logs?

Mr. Frost: Yes, sir.

Mr. Walter: So you do haul other logs?

Mr. Frost: Yes, sir, according to that statement it shows the number of cars.

Mr. Walter: The railroad tariffs of your connection concurred in by you will show whether or not it is a milling in transit proposition?

Mr. Frost: Yes, sir.

Mr. Walter: You furnish the service of moving the empty cars to the mill and the lumber out, and furnish a railroad for the movement of the logs?

Mr. Frost: Yes, sir.

Mr. Walter: You operate the passenger train daily over
5527 the line?

Mr. Frost: Yes, sir.

Mr. Cowan: Is that a mixed train or real passenger train?

Mr. Frost: Mixed train.

Mr. Cowan: You used the term passenger train.

Mr. Walter: I will ask you whether any property, whether it be lands or timber holdings, is as valuable without railroad transportation as with it?

Mr. Frost: It is not.

Mr. Walter: I will ask you whether or not a railroad property in and of itself is as valuable or more valuable when it has amicable relations with its connecting line?

Mr. Frost: I would consider it was more valuable.

Mr. Walter: We will be glad to have Mr. Smith testify, who is the man at Nacogdoches who knows of his own knowledge the various operations of this railroad, if the Commission cares to have him come, if you want to conduct a further examination.

Commissioner Harlan: You mean about rates?

Mr. Walter: Rates and ownership of this traffic, and the manner in which it is operated.

Commissioner Harlan: As I understand, you will make
5528 him available to the Commission if it desires further information?

Mr. Walter: Yes, if you will let us know in advance we can have him.

Commissioner Harlan: I just want to put another question to Mr. Frost: I do not want any misapprehension of some of the statements he has made to rest in my mind or on the record. Now Mr. Frost, I would like to ask again whether you meant to be understood as saying that as between a tap line that gets no allowances and a tap line that does, the advantage or disadvantage is with one or the other, and if so, with which?

Mr. Frost: Well, two tap lines, where the conditions are the same, and one gets a division and the other one does not, the one that does not would naturally be at some disadvantage; but that is not a parallel case as I understand it, with where the railroad gets the division.

Commissioner Harlan: You went on further to state that the disadvantage or the burdens of being a common carrier were such as to overcome or substantially overcome the advantage that such a line gets in its divisions.

Mr. Frost: Not altogether. I did not mean to say that the mere fact——

Commissioner Harlan: Is it not very far from overcoming
5529 the advantages of divisions?

Mr. Frost: That is one of the disadvantages, is the way I meant to put it, that they have laws to comply with and there is a certain liability there or risk that they have got to run as a railroad corporation that they might not have as just a logging road.

Commissioner Harlan: I think perhaps as it rests in the record by your previous statement, it gives an impression that you did not intend. I understood you to mean that the disadvantage of being a common carrier was so burdensome as practically to give such a line no advantages with a division over a line operating under like conditions without a division. Now you do not mean to say that at all, do you?

Mr. Frost: No, what I meant to say was, if there are two tap lines and one of these tap lines did not get a division and the other tap line did, there would be some disadvantage. But if it is a railroad, why that is a different proposition.

Commissioner Harlan: I know it is a different proposition, but——

Mr. Frost: We have the railroad there, and in addition to that we have the spur track down in the woods to haul the timber,
5530 and this division goes to the incorporated railroad which performs the service of a common carrier.

Commissioner Harlan: Mr. Scott this morning gave us the figures of one of your lines where the total revenues from divisions approximated $78,000 and the total expenses including the depreciation and all, approximated $98,000, showing a deficit of $20,000, and that was an incorporated line that did some business for others. Now assume another line operated under precisely the same con-

ditions that was not incorporated, it would have $98,000 of expense without any revenue, would it not?

Mr. Frost: Well, they would not have all the service to perform that the road performs that does operate as a common carrier.

Commissioner Harlan: Just answer this question first and we will get to the other. It would have the operating expense without any revenue?

Mr. Frost: If they operated as many trains as the incorporated road, they would, but they do not have to operate those trains.

Commissioner Harlan: No, they do not have to operate those trains. Now do you mean to have it appear in the record that
5531 in that case you operated enough trains and did enough outside business to absorb the benefit of $78,000 in allowances or to anywhere approximate the absorption of that amount of money?

Mr. Frost: I do not know whether I understand your question or not.

Commissioner Harlan: Well, judging from replies that you have heretofore made, you apparently wish to be understood as saying that the railroad that Mr. Scott had in mind this morning when he gave those figures, was at such a disadvantage because it had to take this outside traffic as a common carrier, that it got no proximate benefit from its revenues over another line operated in substantially the same conditions that was not a common carrier and got no revenues at all.

Mr. Frost: Well, I said that was one of the extra expenses that the incorporated road had to go to; just what proportion that is I could not say about that.

Commissioner Harlan: Well, it is a very small proportion, is it not, just as a practical business man, is it not a very small proportion?

Mr. Frost: Well, in some instances it is, and in others it might be very much greater.

5532 Commissioner Harlan: Can you imagine then why nearly all these roads have been incorporated if everyone is of your point of view, and——

Mr. Frost: Well, they have been incorporated to legalize this division, where they expected to operate it as a common carrier.

Commissioner Harlan: In other words, the division is something worth going after, is it not, notwithstanding the attendant obligations of being a common carrier?

Mr. Frost: Well, yes, of course.

Commissioner Harlan: Very well, that is all.

Mr. Walter: Let me ask this question, Mr. Frost. Reference was made to the Angelina Lumber Company. As a matter of fact the Angelina & Neches River Road has appeared here and it shows here there are divisions, so there can be no misunderstanding. Take the case of your line where you have invested in a railroad and lumber company, suppose the Santa Fe, for example, sees fit to loan to a competitor of your lumber company $3,000,000, we will say at four

per cent interest, and carries that fellow; I will ask you whether that more than compensates the advantage you get from any divisions?

Mr. Frost: It does.

5533 Mr. Cowan: What does that have to do with the matter of operating the logging roads? You say it more than compensates the other. What has it got to do with it.

Mr. Frost: Well if a man borrows money at four per cent, $3,000,000 at four per cent, he pays $120,000 a year interest.

Mr. Cowan: But what has that got to do with the operation of the railroad, to get logs to the mill?

Mr. Frost: The average lumber man pays six per cent or about that, or $180,000, therefore the fellow that borrows the four per cent money has got $60,000 saved in interest right to start with. Now on a proposition amounting to $3,000,000, I would say that he would manufacture 25,000,000 or 30,000,000 feet a year and he saves in the interest item alone $60,000 a year or about seven or eight cents per 100 pounds, or which would be about the same thing——

Mr. Cowan: Will you kindly answer my question. I do not ask anything about that. I asked you if that has anything to do with the matter of logging the mill by a railroad, the fact of lending him money——

Mr. Garwood: The fact or the ultimate effect of the testimony is a matter to be argued later.

Mr. Cowan: It has been referred to several times during 5534 the case, and I want to ask another question about it.

Commissioner Harlan: Just in that connection is it not true that three of the roads in which your company is interested have loaned their rails without charge to the lumber company in one case, I think the item on the account as exhibited by Mr. Scott, showed $123,000 invested in that form by the railroad company and loaned to the lumber company without charge.

Mr. Frost: Well, that was probably the Louisiana & Pine Bluff.

Commissioner Harlan: It was the Louisiana & Pine Bluff. That is equivalent to a loan of money without interest, is it not?

Mr. Frost: Well, there are other things which come into consideration.

Mr. Walter: In that case the logging company pays for keeping up the equipment which ran over the railroad and which was used by the railroad.

Commissioner Harlan: They did not pay any rental for the equipment.

Mr. Walter: No, but they maintained that and the railway equipment and——

5535 Mr. Coleman: The testimony was that the railway company owned the steel rail and allowed depreciation of them and built the spurs and did everything for the lumber company.

Mr. Walter: Oh, no.

Mr. Coleman: I beg pardon, that was the testimony.

Commissioner Harlan: It will stand on the record.

Mr. Cowan: The Lutcher-Moore Lumber Company I will assume, have got plenty of money and do not have to borrow any——

Mr. Frost: Well, they are very fortunate then.

Mr. Cowan: But you do have to borrow money—I don't know whether you do, but assume that you do——

Mr. Frost: Yes, sir, you are right.

Mr. Cowan: Do you think a division of the freight rates so as to equalize the advantages and disadvantages of capital you have invested and the rate of interest you have to pay—do you think that is what it is?

Mr. Frost: I do not see much difference in loaning money——

Mr. Cowan: Just answer the question. Do you think that or not?

Mr. Frost: Well, you will have to state it over.

Commissioner Harlan: Well, Judge Cowan, don't you think you can argue those points later.

5536 Mr. Cowan: Well, just one other question that I think is important. That last one was not, as it is a matter of argument. You operate as a common carrier with this road we have just been speaking about in Texas, by running one train a day each way?

Mr. Frost: Yes, sir.

Mr. Cowan: I want to know if you on that train handle this outside traffic that your report shows you get your revenue on?

Mr. Frost: I presume it is handled on the same train. It is a mixed train; we carry both freight and passengers.

Mr. Cowan: Can you state whether or not the amount of outside traffic you handle on that train produces a profit over and above the cost of operation of that train?

Mr. Frost: No, I have not those figures.

Mr. Cowan: Well, do you know whether it does or not?

Mr. Frost: I do not know; it has not been separated in our accounts.

Mr. Cowan: That is the only train operation your railroad has of its own?

Mr. Frost: Yes, sir, that is all we need.

Mr. Cowan: Outside of handling the lumber from the mill
5537 to the switch connection——

Mr. Frost: That train handles the lumber.

Mr. Cowan: It does that too?

Mr. Frost: Yes.

Mr. Cowan: If you did not have that traffic, and therefore did not have to run that train, would your railroad operations be more profitable than they are now?

Mr. Frost: If we did not have to run the train?

Mr. Cowan: Yes.

Mr. Frost: If we did not run the train we would not have any railroad.

Mr. Cowan: Then you might have a railroad and operate your other business over it without running a train?

Mr. Frost: It would not be a common carrier.

Mr. Cowan: Suppose it was not, suppose you did not have that train and did not have that traffic, would there be a saving in your operations by that fact?

Mr. Frost: I do not know whether I understand what you want. I do not understand your question.

Mr. Cowan: I want to know whether that train is a profitable proposition?

Mr. Frost: The operation of it?

5538 Mr. Cowan: The operation of that train, assuming you do have the railroad and have to have it for the lumber business, whether it is profitable to operate the train?

Mr. Frost: The statement ought to show for itself.

Commissioner Harlan: Well, do you know, Mr. Frost? If you do not, say so.

Mr. Frost: According to the statement, we have not earned any money on the proposition so far.

Commissioner Harlan: You refer to the whole account. Judge Cowan was referring to the operation of one train.

Mr. Frost: Well, I do not know.

Mr. Cowan: Then if your lumber business was not there, if that train does not produce a profit and your lumber business was not there, you could not operate the railroad at all, is not that true?

Mr. Frost: We could not operate any railroad profitably unless we had the tonnage.

Mr. Cowan: So the prime purpose therefore of the railroad is for the lumber business, because there is no profit out of the other.

Mr. Frost: Well, it is there——

Mr. Walter: He said he did not know.

5539 Mr. Cowan: I thought that might cause him to find out about it.

Mr. Frost: We have to operate it.

Mr. Coleman: That one cent division is on local Texas business, is it not?

Mr. Frost: I do not know: that might be on interstate or some points in Texas.

Mr. Coleman: Now in answer to question by Mr. Commissioner Harlan, you stated that you would have preferred to have bought that timber without the railroad.

Mr. Frost: I said I did not know, it might have suited us just as well to have bought the timber without the railroad and let them keep the railroad, but I did not suppose we could make that deal.

Mr. Coleman: Take this very case, you know the timber and know the railroad: would you have bought the timber without the railroad.

Mr. Frost: If we could at the right price we would.

Mr. Coleman: You stated however that a railroad was practically indispensable to the operation of a saw mill with a large output.

Mr. Frost: You have got to have a railroad to haul the logs.

5440 Mr. Coleman: Now did you not state that?

Mr. Frost: What is that?

Mr. Coleman: You stated that a railroad was practically indispensable to the operation of a saw mill of any magnitude.

Mr. Frost: I said you had to have a railroad to get the logs in to any large mill.

Mr. Coleman: That is only another way of saying it. In view of

those answers, do you still say you would have purchased the lumber tract without the Nacogdoches & Southeastern Railroad, if one is indispensable to the other?

Mr. Frost: You misconstrue my meaning. You have to have railroad tracks to haul the timber over. I said it was not practicable to haul it with teams, therefore you had to have a railroad to haul the logs to the mill.

Mr. Coleman: In view of that fact, would you have bought the timber without the Nacogdoches Railroad in there?

Mr. Frost: If we could have made satisfactory rates with them we might.

Mr. Coleman: It would depend on what amount of divisions you could receive?

Mr. Frost: We would not have accepted any divisions if we had not bought the railroad.

5541 Mr. Coleman: One more question. You were here Monday or Tuesday when Mr. Carlisle of the Beaumont & Great Northern, testified?

Mr. Frost: I was here part of the time when he was on the stand.

Mr. Coleman: You heard him say they sold a mill and railroad for four million and some hundred thousand dollars, and you heard him also say that he then as a private investment purchased back the railroad for five hundred and some thousand dollars.

Mr. Frost: I do not remember the exact figures.

Mr. Coleman: Well, he purchased the railroad back, and would have nothing to do with the lumber company. Is there a great difference of opinion between you and Mr. Carlisle on that general subject?

Mr. Frost: I don't understand what you are getting at.

Commissioner Harlan: Well, that can be argued later.

Mr. Coleman: All right, that is all.

Mr. Garwood: I have some figures here from the T. & N. O. which indicate that for the year ending June 30th, 1910, the Nacogdoches & Southeastern received divisions on interstate lumber of only

5542 $454.74. Was there any special condition that obtained up there during that year?

Mr. Frost: That ended the current month of 1910?

Mr. Garwood: June 30th, 1910.

Mr. Frost: The Haywood Lumber Company plant burned in the latter part of 1909, and they did not ship very much lumber.

Mr. Garwood: For the same year the figures indicate they received divisions on intrastate lumber of $2,418.64. For the year ending June 30th, 1909, the divisions on interstate stuff amounted, as my figures would indicate, to $2,946.09 and on intrastate stuff $2,060.49. Have you got figures in your possession that would indicate the——

Mr. Frost: No, sir, that was before we bought the plant, but one reason of the light shipments for the year ending June 30th, 1910, was on account of their mill burning.

Mr. Garwood: For the year ending June 30th, 1908, the intrastate divisions appeared to have amounted to $2,271.23 and the interstate divisions $2,413.59. If you have not those figures so that I

may verify their correctness, I will ask you to have your Mr. Smith verify those.

Mr. Frost: Yes, sir.

Mr. Garwood: You also connect with the Houston, East & West Texas at that point?

5543 Commissioner Harlan: He said not.

Mr. Garwood: Well, not direct physical connection; I think probably you reach the Houston, East & West Texas over the tracks of the T. & N. O. now, do you not?

Mr. Frost: Yes, sir.

Mr. Garwood: You are thinking of making the connection?

Mr. Frost: We have had that matter up.

Mr. Garwood: I think that they cross each other at Nacogdoches near the plant. I find that I have not the divisions actually paid by the Houston, East & West Texas if any, to that road. I will ask you to get those. The Railroad Commission map indicates that beyond the terminus of your road, there are a number of small communities, that is they are named on the map. I will ask you to state whether or not that country down towards the Attoic and in that direction is agricultural in its nature and susceptible of agricultural development?

Mr. Frost: Yes, sir.

Mr. Garwood: Is it fairly well settled for that country?

Mr. Frost: Yes, sir, there are a good many farmers in there.

Mr. Garwood: How far is it from the terminus of your line

5544 to the Santa Fe in East Texas?

Mr. Frost: I understand it is about 15 or 16 miles from the end of this new extension we have built.

Mr. Garwood: The Santa Fe is the only trunk line between the end of your line and the Sabine River?

Mr. Frost: Yes, sir.

Commissioner Harlan: The Washington & Choctaw and the Natchez, Ball & Shreveport cases will be called in the adjoining room presently. Those interested in either of those cases will kindly report in that room before Examiner Burchmore.

Mr. Garwood: The Gulf, Colorado & Santa Fe is the only trunk line in East Texas between the terminus of your line and the Sabine River, is it not?

Mr. Frost: Yes, sir, that is the only line.

Mr. Garwood: It runs practically parallel with the Sabine River?

Mr. Frost: Yes, sir.

Mr. Garwood: About what distance from the Sabine River?

Mr. Frost: Well, from 20 to 30 miles.

Mr. Garwood: There is no other trunk — between the Santa Fe and the Sabine River, is there?

5545 Mr. Frost: Nothing north of the town of Newtown, the Orange & Northwestern, I understand, have extended up to the town of Newtown. From there north the Santa Fe is the only track through Sabine or Shelby Counties.

Commissioner Harlan: You own timber lands down there?

Mr. Frost: No, sir—at what point?

Commissioner Harlan: Down in this country by the Sabine River?

Mr. Frost: No. We own——

Mr. Garwood: That is on the east side of the Sabine River, and we are now asking about the west side. So there are no trunk line facilities for the lumber in that country other than the Santa Fe Line?

Mr. Frost: No other trunk line.

Mr. Garwood: The Santa Fe, in that portion of the state, is composed of the Gulf, Beaumont & Kansas City, the Beaumont & Great Northern, purchased, I believe, from Mr. Kirby, and the Texas & Gulf, and that makes up the line with such new line as they have recently constructed, to Longview?

Mr. Frost: Yes, sir.

Mr. Garwood: Do you know of a large body of land along——

Commissioner Harlan: Mr. Garwood, is this pertinent to
5546 this particular case?

Mr. Garwood: Well, it is pertinent to the general situation, as I think your Honor will see. This witness knew of it personally, and I have got to leave in a minute to the next room.

Commissioner Harlan: Then if you will state the facts as you understand them.

Mr. Garwood: I will ask this question and then I am through. Do you know of a large body of pine land lying in that country to the east and south of you called the Kountze lands?

Mr. Frost: Yes, sir, in a way.

Mr. Garwood: Have you a knowledge of the extent of that body of land?

Mr. Frost: I do not know the exact acreage. They were very large holders and a good deal of it is——

Mr. Garwood: Who holds the title to that land?

Mr. Frost: I understand the records show the name of Mr. Gallup.

Mr. Garwood: Do you know who he is?

Mr. Frost: I understand he is a representative of the Santa Fe Railroad.

5547 Mr. Garwood: Can you state in a general way the extent of that body of land?

Mr. Frost: I do not know the acreage, but——

Mr. Garwood: In a general way is it not over 80,000 acres? What is it?

A Voice: 180,000 acres.

Mr. Garwood: Then that may go in the record, 180,000 acres.

Mr. Walter: Your Mansfield Line is extending west from Mansfield, and south?

Mr. Frost: Yes, sir.

Mr. Walter: And this line towards the Sabine River?

Mr. Frost: Yes, sir.

Mr. Walter: And this line is extending towards the Sabine River in a northerly direction?

Mr. Frost: Southeast.

Mr. Walter: Yes. Yesterday your attention was called to your

testimony at New Orleans in reference to the tariff, as to whether it was a milling in transit on the Mansfield Railroad.

Mr. Frost: Yes, sir.

(Mr. Walter here read from Kansas City Southern tariff I. C. C. No. 1945, effective November 24th, 1908, Supplement No. 12, effective September 30th, 1908, that Supplement No. 11 to I. C. C. No. 1945 and from Supplement No. 28, to I. C. C. No. 1945, effective January 15th, 1911.)

5548

Commissioner Harlan: I will direct the stenographer to strike all that out. We do not want to encumber the record with tariffs. Counsel is at liberty to refer to them in his brief or argument.

Mr. Walter: I think it is pertinent and I must insist——

Commissioner Harlan: The ruling is they will go out. You are at liberty to refer to the tariffs.

Mr. Walter: But I want to state in connection with his testimony he stated he was not familiar with it, and these tariffs give the dates which have relation to the hearing.

Commissioner Harlan: I do not wish to be misunderstood. That is all available to counsel in the argument of the case, but the Commission does not desire the expense of incorporating all this matter in the record.

Mr. Walter: Well, a reference to the tariff is all I care for.

Mr. Coleman: That has nothing to do with the Mansfield Railway either.

5549

Mr. Cowan: Is it not a fact that the Cotton Belt Railroad is only 10 or 12 miles from your eastern terminus at Nacogdoches?

Mr. Frost: From the Nacogdoches & Southeastern?

Mr. Cowan: Yes.

Mr. Frost: It must be 25 miles down there. They are right at the southern end of the county. I do not know the distance.

Commissioner Harlan: Did you not state to Mr. Smythe in June, 1908, that the Frost-Johnson Lumber Company did own lands west of the Sabine River, or the Frost-Trigg Lumber Company?

Mr. Johnson: The Frost-Johnson Company owns about 4,400 acres, but not in the territory Mr. Garwood had reference to.

Commissioner Harlan: Is that all you own west of the Sabine River?

Mr. Frost: Well, they own 4,400 acres just across the river, from the end of the Mansfield Road on the Texas side of the river, in Shelby County. Then three or four of us own individually just a small amount just below there, but the land Mr. Garwood had reference to, as I understood, was in a different part of the territory. We own no timber cut in that territory at all.

5550

Commissioner Harlan: Has the Texas Commission valued your railroad property?

Mr. Frost: The Nacogdoches & Southeastern? I understand that that is the law, that they put a value upon it before they recognized it; that is their rule.

Commissioner Harlan: Do you know what the value was?

Mr. Frost: I presume that it is equal to the capital stock that they allow to be issued.

Commissioner Harlan: The valuation underlies the right to issue stock.

Mr. Frost: The amount of stock issued is figured on the valuation.

Mr. Cowan: I would like to have the Frost-Johnson Company state the extent of their entire holdings of timber in this pine forest, and the character of the Frost-Johnson timber holdings.

Commissioner Harlan: You mean everywhere?

Mr. Cowan: In this district where these particular railroads operate.

Commissioner Harlan: That has been stated. We will take up next the Bodcaw Valley Railway.

5551 *Bodcaw Valley Railway Company.*

E. A. FROST resumed the stand and testified as follows:

Commissioner Harlan: Where is the Bodcaw Valley Railway?

Mr. Frost: It is built from the town Alden Bridge, Louisiana, in an easterly direction.

Commissioner Harlan: And what is its length, about 24 miles?

Mr. Frost: It is about 24—we had 24 miles of track, but part of it has been taken up out at the end; I do not know just how much they have of their main line in the incorporated part.

Commissioner Harlan: You do not know the length of the main line?

Mr. Frost: No, sir; I have not those figures. That property we purchased about two or three years ago from the Whited & Wheless Company and we got the stock of the road in the deal.

Commissioner Harlan: You purchased their mill and timber also?

Mr. Frost: Their timber, and also the stock of this road.

5552 Commissioner Harlan: You did not give any specific amount for the railroad?

Mr. Frost: No.

Commissioner Harlan: Or the equipment?

Mr. Frost: No, sir. They had the road incorporated and——

Commissioner Harlan: Under the laws of Louisiana?

Mr. Frost: Under the laws of Louisiana, and were getting a small division, and we simply took the property over and those arrangements were in effect at the time we bought it, and they have continued just as they were when we bought it, for ten or twelve years, as I understand.

Commissioner Harlan: You took over the stock, and what did it amount to?

Mr. Frost: I do not know just how much stock was outstanding. They reported to the Commission.

Commissioner Harlan: Have they any bonded indebtedness?

Mr. Frost: No.

Commissioner Harlan: It is a narrow gauge line, is it not?

Mr. Frost: Yes, sir.

Commissioner Harlan: What is the amount of timber you took in that purchase?

Mr. Frost: I think about fifty or sixty million feet.

5553 Commissioner Harlan: How many acres?

Mr. Frost: That was on possibly ten or twelve thousand acres.

Commissioner Harlan: What equipment did you get?

Mr. Frost: We got the equipment that they had with the road, locomotives and cars.

Commissioner Harlan: How many cars have you now? Three locomotives; is that about right?

Mr. Frost: I think so; yes, sir.

Commissioner Harlan: You have no passenger car?

Mr. Frost: No.

Commissioner Harlan: And no freight cars?

Mr. Frost: No; we have a car that they used to carry the employees out or carry any one else out that might want to go.

Commissioner Harlan: Then you have fifty-six logging cars?

Mr. Frost: I do not know just how many they have.

Commissioner Harlan: You have logging cars, though?

Mr. Frost: Yes, sir.

Commissioner Harlan: Are there any logging roads connected with that line that are owned by the mill company?

Mr. Frost: They have spur tracks out into the woods belonging to the mill company.

5554 Commissioner Harlan: And do they operate them?

Mr. Frost: To haul logs over; yes, sir.

Commissioner Harlan: Have they trackage rights over your line?

Mr. Frost: The logging company has; yes, sir.

Commissioner Harlan: Do you operate your line for the company's logs?

Mr. Frost: No, the logging company operates the trains under contract.

Commissioner Harlan: And you lease the locomotives and cars to them?

Mr. Frost: Yes, sir.

Commissioner Harlan: What is the rental that they pay?

Mr. Frost: I am not familiar with that.

Commissioner Harlan: Do they pay any rental?

Mr. Frost: Well, I do not know. I have not handled that.

Commissioner Harlan: Is there anyone here that knows?

Mr. Frost: No, sir.

Commissioner Harlan: It is a fact, then, that the logging company or the lumber company operates the entire line up to the mill?

Mr. Frost: Yes, sir.

5555 Commissioner Harlan: You do not have any outside tonnage to speak of on that line, do you?

Mr. Frost: There is very little.

Commissioner Harlan: Approximately none; occasionally you have a car or two?

Mr. Frost: The report shows, and I understood that that report had been filed right along with the Commission from time to time.

Commissioner Harlan: Our reports seem to indicate that you have an occasional carload of ties to move for outsiders.

Mr. Frost: Well, that is probably true.

Commissioner Harlan: When you have such a car to move, it is moved by the logging company, is it not, attached to its regular logging train?

Mr. Frost: Yes, sir.

Commissioner Harlan: When there is such a movement for outside parties of ties, do you know where they go to?

Mr. Frost: No, sir; I am not familiar with that.

Commissioner Harlan: What rate is paid on such movements?

Mr. Frost: Well, I do not know.

Commissioner Harlan: Do you know whether you publish any rates in connection with other lines, or on your own line
5556 for such movements?

Mr. Frost: When we took it over, I found they had filed concurrences in connection with the Cotton Belt tariffs on lumber, and inasmuch as it had been running that way for so long, I supposed it was all right.

Commissioner Harlan: Is it not a fact that you have a $3.00 per car rate that is open to everybody for the movement of cars of lumber from points on your line up to the junction?

Mr. Frost: That may be. They may have a rate of $3.00; I do not know.

Commissioner Harlan: And when there are such movements, the trains are actually hauled by the logging company?

Mr. Frost: Well, if they are, the railroad company probably compensates the logging company for that service.

Commissioner Harlan: You do not know whether such shipments go forward on a through rate from points on your line?

Mr. Frost: I do not think they go through on the through rate.

Commissioner Harlan: No; it is really a switching rate and a switching movement from points on your line to the junction.

Mr. Frost: Yes.

5557 Commissioner Harlan: What is the name of the mill corporation?

Mr. Frost: It is one of the Frost-Johnson Lumber Company's mills.

Commissioner Harlan: What is the actual corporate name of the company; is it a separate company?

Mr. Frost: No, that is a Frost-Johnson Lumber Company plant.

Commissioner Harlan: Is there a logging company?

Mr. Frost: Yes, sir.

Commissioner Harlan: What is the name of that logging company?

Mr. Frost: The Smith Logging Company.

Commissioner Harlan: Owned by the Frost-Johnson Lumber Company?

Mr. Frost: No, it is owned by Smith.

Commissioner Harlan: And it does the logging operations for the Frost-Johnson Company?

Mr. Frost: Yes, sir.

Commissioner Harlan: Now, what compensation does the Bodcaw Valley Railroad Company get for its service?

Mr. Frost: They get about two cents per hundred pounds
5558 on the lumber.

Commissioner Harlan: It is from one to two and a half cents, is it not, according to destination?

Mr. Frost: According to the gateway it goes through.

Commissioner Harlan: And your lowest division is one cent and your highest, two and a half cents?

Mr. Frost: I think it is two and a half cents.

Commissioner Harlan: Do you get more than that?

Mr. Frost: They might get three cents to one or two points.

Commissioner Harlan: What are those points?

Mr. Frost: Probably through Cairo or Thebes they might get three cents, although I do not know just what that division is. I would say an average of one and three-quarters or two cents.

Commissioner Harlan: According to a division sheet I hold before me of the St. Louis Southwestern Railroad Company, your highest allowance on that line seems to be two and a half cents.

Mr. Frost: What is the date of that?

Commissioner Harlan: The effective date does not seem to be shown.

Mr. Frost: I think that is correct.

5559 Commissioner Harlan: If you will be kind enough to ascertain what the fact is, and let us know?

Mr. Frost: Yes, sir; I can find out at the Cotton Belt office.

Commissioner Harlan: In case you get higher than two and a half cents.

Mr. Frost: It is not higher than three cents, and I think two and a half cents is the maximum.

Commissioner Harlan: What service do you perform for that compensation?

Mr. Frost: Well, we own the track out to the woods. We have an investment, and it is practically a milling in transit proposition. The logs are hauled in and manufactured into lumber, and taken over to the Cotton Belt.

Commissioner Harlan: Do you, as a matter of fact, perform any service at all?

Mr. Frost: Nothing only hauling the logs in.

Commissioner Harlan: Well, I understood that was done by the lumber company.

Mr. Frost: The logs are hauled in by the logging company under our instructions and over our tracks. I do not remember—I think we have a contract with them covering that.

5560 Commissioner Harlan: We would like a copy of that contract.

Mr. Frost: Yes, sir.

Commissioner Harlan: And that contract calls for a rental to be paid by the logging company to the railroad company?

Mr. Frost: It seems just the way the whole proposition is handled.

Commissioner Harlan: But the Bodcaw Valley Railway Company itself does not haul any timber, manufactured lumber or logs?

Mr. Frost: Well, they might haul it through this company under this trackage arrangement.

Commissioner Harlan: Well, the point is simple enough. The mill is on the tracks of your connection, is it not?

Mr. Frost: Yes, sir.

Commissioner Harlan: And the manufactured lumber is hauled from the mill by the regular line, and the empty cars are set there?

Mr. Frost: They are set in by the Cotton Belt, and we load them on that track. That siding may belong to the railroad company, but our railroad company does not handle the cars out.

Com. Harlan: You mean they are loaded there by the lumber Company?

5561 Mr. Frost: Yes, sir.

Commissioner Harlan: And the Cotton Belt or your other connection sets the empty cars there and takes them out again?

Mr. Frost: The Cotton Belt performs the service.

Commissioner Harlan: And you receive from the Cotton Belt these allowances?

Mr. Frost: Of one to two and a half cents, yes, sir.

Commissioner Harlan: How are the settlements made?

Mr. Frost: We make up an abstract of shipment, and send that statement to their offices, and settlement is made and they either send us a voucher, or give us authority to draw for that amount.

Commissioner Harlan: Suppose you draw on them, what becomes of the funds?

Mr. Frost: If they have any funds on hand it is turned over to the Frost-Johnson Lumber Company and applied—they keep a separate set of accounts.

Commissioner Harlan: Suppose they send you a voucher; you simply endorse it over to the lumber company, do you not?

Mr. Frost: It is handled in the regular accounting way, just——

Commissioner Harlan: Well, is not that the fact, is not

5562 the voucher itself endorsed by the railroad company directly to the lumber company?

Mr. Frost: In some instances it is; yes, sir.

Commissioner Harlan: Is not that the usual course of the vouchers?

Mr. Frost: I expect it is; it is handled by our accounting department and I do not know just how they handle it.

Commissioner Harlan: Has the Bodcaw Valley Railroad ever paid any dividends?

Mr. Frost: I think so.

Commissioner Harlan: What was the last dividend paid?

Mr. Frost: I don't remember just how much it was. The statement we filed shows that last year.

Commissioner Harlan: It was a dividend of twenty per cent, was it not?

Mr. Frost: I believe that is correct.

Commissioner Harlan: What other dividends has it paid?

Mr. Frost: I don't remember.

Commissioner Harlan: Summing up your statement, it is about this, as I understand it: The Frost-Johnson Lumber Company owns the mill and the adjoining timber lands, and also owns this narrow gauge railroad company; the logging is done by the Smith
5563 Company, and that company has trackage rights over your railroad up to the mill, and it pays the railroad company a yearly rental or some form of compensation.

Mr. Frost: That is in the contract; yes, sir.

Commissioner Harlan: As is shown in the contract for such use of the track?

Mr. Frost: Yes.

Commissioner Harlan: After the logs have been milled, the loaded cars are hauled out by your connection and empty cars are also set in there for loading.

Mr. Frost: Yes, sir.

Commissioner Harlan: The Bodcaw Valley Railroad Company itself does not perform any haul or any other transportation service?

Mr. Frost: They do not haul the manufactured products; no, sir, but they——

Commissioner Harlan: And they do not haul the logs, except as——

Mr. Frost: Well, through the subsidiary company, the Smith Logging Company.

Commissioner Harlan: The logs are hauled under the terms of this contract?

5564 Mr. Frost: Yes, sir.

Commissioner Harlan: Who are the parties to that contract?

Mr. Frost: The Smith Logging Company and either the Whited & Wheless—I do not remember whether that contract was entered into before or after we purchased it. After we purchased it, the Frost-Johnson Lumber Company of course would make the contract with the Smith Logging Company for the logging. Then the contract with the railroad would be between the railroad company and the Smith Logging Company. I am not familiar with it. It has been some time ago.

Commissioner Harlan: Is it not a fact that the contract is only between the lumber company and the logging company, and it is a contract for hauling the logs?

Mr. Frost: Well, the lumber company has a contract with the Smith Logging Company——

Commissioner Harlan: Is not that their contract, to cut down the timber and make the logs and then haul the logs to the mill?

Mr. Frost: Yes, sir, there is a contract between those two companies to that effect.

Commissioner Harlan: And that contract purports to establish the basis of compensation paid by the lumber company to
5565 the logging company for that labor?

Mr. Frost: Yes, sir.

Commissioner Harlan: Now, what is the other contract?

Mr. Frost: I do not remember; I will have to look it up and file it.

Commissioner Harlan: Is there another contract?

Mr. Frost: I think so. If there is, I can get it as soon as I return.

Commissioner Harlan: We would like to have a copy.

Mr. Frost: Yes.

Commissioner Harlan: Then does it not result from your statements that every dollar of money received from your connections is applied to the cost of getting the logs to the mill, and that there is no transportation service other than that?

Mr. Frost: Well, we have the investment there, and we figured that that was justified on the milling in transit proposition.

Commissioner Harlan: Well, that is the fact, is it not?

Mr. Frost: Yes, sir.

Commissioner Harlan: And besides paying to some one the full cost of moving the logs to the mill, you were able to
5566 get twenty per cent dividend last year on the investment in the railroad company?

Mr. Frost: Well, whatever we got, of course, was applied and paid out as dividends from that road.

Commissioner Harlan: And that dividend accrued to the benefit of the Frost-Johnson Lumber Company?

Mr. Frost: Well, after they pay their debts, yes, sir; that is correct.

Commissioner Harlan: Well, this was net revenue declared in the shape of dividends and all that went to the Frost-Johnson Lumber Company, did it not?

Mr. Frost: It was paid over to them; yes, sir.

Commissioner Harlan: Have you any questions, Judge Cowan?

Mr. Cowan: Yes, on this and the other cases. This logging company operation, referring to this and the other cases also, involves the use of equipment owned in part by the railroad company and in part by the lumber company, taking this and the other cases?

Mr. Frost: You mean——

Mr. Cowan: The logging company uses locomotives belonging to the railroad company and logging cars belonging to whom?

Mr. Frost: In some instances in some of our plants the
5567 cars belong to the railroad and in others to the lumber company.

Commissioner Harlan: In this case they all belong to the railroad?

Mr. Frost: I think so.

Mr. Cowan: There must be an operating expense account of this logging company which would show the cost of the repairs of equip-

ment, unless the railroad company is responsible for all repairs to equipment.

Mr. Frost: There is a record to show the cost of keeping the cars up.

Mr. Cowan: Who pays that, the railroad company or the logging company in all these cases?

Mr. Frost: That is in the contract.

Mr. Cowan: I am not familiar with the contract. I have not read it.

Mr. Frost: I said I would file the contract.

Commissioner Harlan: Well, do you know the facts?

Mr. Frost: I do not know just how it is; no, sir.

Mr. Cowan: It would seem to me that in the operating expenses of the railroad company, we will not be able to know to what extent the expenses—what real expense should be
5568 borne by the logging company and therefore in the operation of the saw mill business, and to what extent operating expenses are operating expenses of the railroad company, unless we have the operating expense account of the logging company for the maintenance of equipment. That is about the only thing I can think of, is the maintenance of equipment, because the railroad company maintains the track of course and hence I want to request that you have filed in the case a statement of the operating expense account of the logging company, at least in so far as it pertains to the service which they perform. I do not suppose you have that here.

Mr. Frost: No.

Mr. Cowan: I will ask you if you will furnish it. Can you state any reason, speaking generally, from your knowedlge of the business, why there should be a different division of the rate? It appears all through the case there are divisions ranging from one up to five cents, and in some cases possibly a little more. Why should there be a difference in the division, and how does it come about, if you know?

Mr. Frost: The difference is dictated by the trunk lines. They simply say they will allow one cent through one gateway and two cents through another, we have to take what we can
5569 get in that case.

Mr. Cowan: Is there any foundation for that allowance; is there any reason underlying it which would indicate it ought to be one cent here and two cents there and three cents another place?

Mr. Frost: I suppose they figure on the allowance they get from the connecting line. If they get ten cents at one point and 20 cents at another, they might make an allowance of two cents on the 20 cent point and one cent on the ten cent point.

Mr. Cowan: But you do not know any reason why, looking at it from the standpoint of what would be a reasonable division, why it should be one cent in one case and four cents in another?

Mr. Frost: I understand they figure it on the basis of the proportion they get out of the through rate.

Mr. Cowan: But they are not trying to cover a specific expense

of your company by making a rate of one cent to one place and four cents to another?

Mr. Frost: I do not know what they are trying to do: that is the proposition, as I understand it, that they figure the
5570 proportion or the allowance that they make is based on the amount that they get out of the through rate.

Mr. Cowan: Now, do you know whether the amount that they can get out of the through rate determines where they will try to have this traffic hauled to, I mean the amount that your first connection gets out of the through rate, whether they try to make it easy or had to go to a particular locality, depending on the divisions they can get for hauling it?

Mr. Frost: No, I do not think they care anything about where the lumber goes to.

Mr. Cowan: Providing that it goes to the place where they can get the most division?

Mr. Frost: They simply say there is an allowance of one cent through one gateway, and two cents through the other. That is all there is to it. We go ahead and ship the lumber.

Commissioner Harlan: In the case of a highly competitive market, you would bill an order through to destination by a connection that would give you the highest allowance, of course.

Mr. Frost: If we could route it and get the same rate, we would route it that way.

Commissioner Harlan: Yes, if the rate was the same.

5571 Mr. Frost: But you see we only have one route. If there is just one road, we do not connect with any other road, and our only outlet is the Cotton Belt, and they say, or did say to these people, this allowance will be made there, we will say, two cents per hundred pounds through Cairo and maybe one cent through some other gateway.

Mr. Cowan: But you do not know the underlying reason why they make the difference in one case from the other?

Mr. Frost: Not unless it is just what I stated, that they can afford to give that where they get a greater proportion of the through rate.

Mr. Cowan: Well, do you know whether, as a matter of fact, they do give you a higher division where they carry the lumber to places on which they get the largest division for themselves: do you know whether that is true or not?

Mr. Frost: No, I do not know anything about the proportions allowed them.

Mr. Cowan: Do you manufacture railway material?

Mr. Frost: No, sir.

Mr. Cowan: Bridge timbers, and the like of that?

Mr. Frost: No, I do not suppose we have shipped five cars of bridge material over that railroad in a year.

5572 Mr. Cowan: I am now talking of your general manufacturing proposition. Does the Frost-Johnson Lumber Company?

Mr. Frost: I thought you had reference to this particular mill.

Mr. Cowan: No, I am talking now on the general subject.

Mr. Frost: We have one mill that cuts some railroad material, but practically all that we cut is sold to the connecting line.

Mr. Cowan: So you are not extensively interested in that branch of the industry?

Mr. Frost: No.

Mr. Cowan: Do the logging companies in any case get any allowance from the railroad company or get any compensation for their service from the lumber company or otherwise dependent upon the amount of the division in any way?

Mr. Frost: No, sir.

Mr. Cowan: The logging company has a contract of so much per thousand feet, and that is paid by the lumber company; is that true?

Mr. Frost: Yes, sir.

Mr. Cowan: Will you file a statement also, Mr. Frost, or have it done, to show in connection with the request for operating
5573 expenses and maintenance of equipment of the logging company *of* the number of locomotives that each logging company uses, and the number of locomotives used by the railroad company over which they operate in such a case.

Mr. Frost: Do you mean all of the plants?

Mr. Cowan: Take your entire operation, yes. When you file an operating expense account for maintenance of equipment of the logging company, put in what they use in the way of locomotives. Do they use the cars?

Mr. Frost: The logging cars?

Mr. Cowan: I mean do they have anything to do with the maintenance of the logging cars?

Mr. Frost: The logging companies?

Mr. Cowan: Yes.

Mr. Frost: In some instances where the contract provides they are to do certain things.

Mr. Cowan: Wherever it does so provide, let the account show the expense of maintenance of logging cars, and how many logging cars they have. I will just leave it to you in making those statements, to file those statements where the contract requires the logging
5574 company to maintain the cars. There is no use to do it where the contract provides that the railroad company shall do it.

Mr. Frost: Yes, sir.

Mr. Cowan: That is all.

Commissioner Harlan: I wish you would file a statement covering the last three years, of your operating expenses, and show the different items.

Mr. Frost: Operating expenses on the lumber business?

Commissioner Harlan: No, on the Bodcaw line.

Mr. Frost: For the last three years?

Commissioner Harlan: For the last three years.

Mr. Frost: Yes.

Mr. Cowan: There is one thing I want to suggest, your Honor. They have asked us to furnish for the Kirby Lumber Company and others of the intervenors the cost of doing the lumber business. We have those figures, but we probably will object to making them pub-

lic property, while we would have no objection to having the Commission have them. But if we are going to do it, then the others should show them. We are not asking for it, but if that is going to be required of us, we should ask that the others do the same thing.

Commissioner Harlan: Have you your annual report here
5575 for last year?

Mr. Frost: Of the Bodcaw Valley Road?

Commissioner Harlan: Yes.

Mr. Frost: No, it was sent to the Commission.

Commissioner Harlan: I know, but have you a copy of it here?

Mr. Frost: No.

Commissioner Harlan: Can you give me any idea what made up this total of some $21,000 of operating expenses for the year 1909? I assume it was about the same last year.

Mr. Frost: I would have to get the statement, because I have not handled those matters, and I am not familiar with it. I can get it from our auditor, Mr. Dowell.

Commissioner Harlan: Mr. Walter, have you any questions?

Mr. Walter: No questions.

Commissioner Harlan: We will file this division sheet, which, by the way, Mr. Frost, was effective December 1st, 1909.

(The paper so offered and identified was received in evidence and thereupon marked Bodcaw Valley Railway Exhibit No. 1, witness Frost, received in evidence January 27, 1911, and is attached hereto.)

5576 Commissioner Harlan: Now, what other roads are the Frost-Johnson Lumber Company interested in? I have here the Old River and Kissatchie Railway.

Mr. Frost: Yes, sir.

Commissioner Harlan: What about that railway?

Mr. Frost: That is not an incorporated road. That was a name we
they called the road when they bought the plant down there.

Commissioner Harlan: Are you operating that road in any way?

Mr. Frost: Hauling logs over it; that is all. We do not get any division.

Commissioner Harlan: You do not get any division?

Mr. Frost: No.

Commissioner Harlan: Have you ever received any divisions?

Mr. Frost: Not at that point.

Commissioner Harlan: I mean in the operation of that road.

Mr. Frost: No.

Commissioner Harlan: How long have you owned it?

Mr. Frost: Only about two or three years.

Commissioner Harlan: Were any divisions ever received by the former owners?

5577 Mr. Frost: I do not know whether they had or not.

Commissioner Harlan: What about the Shreveport, Noble & Southern?

Mr. Frost: The division or the allowance was dropped there about three or four years ago.

Commissioner Harlan: What allowances did you receive?

Mr. Frost: An average of about two cents per hundred pounds.

Commissioner Harlan: Was that an incorporated company?

Mr. Frost: No.

Commissioner Harlan: Was the other an incorporated company?

Mr. Frost: No.

Commissioner Harlan: Was the Red River Valley an incorporated company?

Mr. Frost: Yes, sir.

Commissioner Harlan: Are you operating that now?

Mr. Frost: No.

Commissioner Harlan: When did you cease to operate that?

Mr. Frost: Some time during 1910.

Commissioner Harlan: What divisions were received?

Mr. Gaughan: That is not a Frost-Johnson Company.

Mr. Frost: That is not one of our plants.

Commissioner Harlan: No, but I think you or your father
5578 were interested in that road, were you not?

Mr. Frost: I had a little stock in the company and my father was interested.

Commissioner Harlan: But it is not one of the Frost-Johnson companies?

Mr. Frost: No.

Commissioner Harlan: Are you an officer of the Red River Valley Railway?

Mr. Frost: No.

Commissioner Harlan: Was your father?

Mr. Frost: Yes, sir.

Commissioner Harlan: It is not now receiving any allowances and it is not now in operation, do I understand?

Mr. Frost: No, they are not operating now and not getting any division, of course, as they are not operating.

Commissioner Harlan: What divisions did you receive?

Mr. Frost: When I was at the mill, which has been several years ago, they got one to two cents. I do not think they were ever increased any.

Commissioner Harlan: Was that incorporated?

Mr. Frost: It was incorporated. They incorporated three or four years ago or five years ago.

5579 Commissioner Harlan: Have you taken up that railroad?

Mr. Frost: I think most of it is taken up. I think they surrendered their charter.

Commissioner Harlan: And the equipment taken to other points?

Mr. Frost: I do not know about that. I do not know whether they have moved any of the equipment or not. I don't know just what shape it is in.

Commissioner Harlan: Mr. Frost, does the Frost-Johnson Lumber Company own any private car?

Mr. Frost: A private car?

Commissioner Harlan: Yes.

Mr. Frost: No, sir.

Commissioner Harlan: One or two of the lumber interests seem to own private cars. You do not own any and never have?

Mr. Frost: No.

Commissioner Harlan: Let me ask this general question, whether any of the sales officers of the Frost-Johnson Lumber Company have free transportation.

Mr. Frost: Not to my knowledge, and I do not think they ever have had.

Commissioner Harlan: Are there any questions *from* this
5580 witness?

Mr. Cowan: I would like to ask him in regard to that railroad or mill which he operates, where he does not get divisions. How extensive is that plant?

Mr. Frost: What is that?

Mr. Cowan: The Old River and some other name, I could not understand. Was it not the Old River?

Mr. Frost: At Montrose. It is the Montrose plant. We do not get any division there. We do not get any division there or at Campti.

Mr. Cowan: And how extensive is that?

Mr. Frost: At Campti we have a band and gang mill there, cutting about fifteen or eighteen million feet.

Mr. Cowan: On what road is that?

Mr. Frost: On the L. R. & N.

Mr. Cowan: If you were incorporated, could you not get divisions from that road?

Mr. Frost: No. We bought that block of timber there from Mr. William Edenborn, and he owned the railroad and the timber. It is kind of like an industrial proposition. We bought the timber from the same man that owned the railroad, and when he sold it to
us he figured the price so that we would not allow any divi-
5581 sion, and told us that, so even if we would incorporate, we would have a law suit if we ever established any division proposition with him.

Mr. Cowan: How many miles do you operate in connection with the logging business there?

Mr. Frost: The timber is close to the mill. We have a spur track running out from the mill to the edge of the timber, some eight or nine miles.

Commissioner Harlan: Will you read that answer please?

(Answer read.)

Commissioner Harlan: In other words, you gave less for that land because there was no division and you could not get any divisions?

Mr. Frost: Well, we probably took that into consideration.

Commissioner Harlan: In other words, a division does increase the value of land and the value of the selling price of timber land?

Mr. Frost: Well, it might. There are a good many things to

take into consideration, and in that we figured that at the price named us we could afford to take it and go ahead and operate it if we never got any divisions.

Mr. Coleman: I want to be sure I understand. It was the
5582 owner of the O. R. & N.——

Mr. Frost: The L. R. & N.

Mr. Coleman: Who owned both the timber and the little road and who sold the little road to you?

Mr. Frost: No, he owned the road on which we located.

Mr. Coleman: It was the owner of the L. R. & N. Company who made this sale to you and made this agreement?

Mr. Frost: He sold us the timber.

Mr. Cowan: This L. R. & N. road runs between Shreveport and New Orleans?

Mr. Frost: Yes, sir.

Mr. Cowan: And he owned this timber and sold it to you without any logging road, and you built your own logging road; is that right?

Mr. Frost: Well, we have the use of—he has a dump built out there that he intended to build over to some connection, I presume, and he gave us the use of that dump.

Mr. Cowan: The grade?

Mr. Frost: Just the grade.

Mr. Cowan: What sort of a railroad is this eight or ten miles you have built out?

Mr. Frost: Just an ordinary logging road.

5583 Mr. Cowan: What weight of steel?

Mr. Frost: We have on parts of it 56 pound, and some of it is 35 pounds to 45 pounds.

Mr. Cowan: Is it necessary in the economical operation of logging trains where you are hauling heavy tonnage to have a good substantial road for that purpose?

Commissioner Harlan: I think this witness has stated that.

Mr. Frost: The better track, the more economically you can handle the logs.

Mr. Cowan: What others do you operate where you do not get divisions; where you have a railroad in connection with the saw mill?

Mr. Frost: This Montrose proposition, we bought that timber there. We have never got any division on that. It is very light——

Mr. Cowan: What does it connect with?

Mr. Frost: With the T. & P.; it is just built over the hills and not graded very much, just about like an ordinary spur.

(Witness excused.)

5584 Commissioner Harlan: We will now call the Trinity Valley & Northern.

Mr. Walter: I think the Examiner has set the Trinity Valley & Northern and the Peach Orchard lines for tonight. The Peach River lines are ready here.

Commissioner Harlan: Judge Cowan, I think one of you, perhaps

Judge Garwood or you, asked Mr. Johnson to remain in order to ask him some general questions.

Mr. Cowan: Yes, I wanted to do that, and started in on it yesterday and your Honor said you wanted to go into the detail of these various cases first.

Commissioner Harlan: Are you ready to put those questions now?

Mr. Garwood: Yes, I can put those questions now. I had a memorandum of it, but I have mislaid it.

Mr. Cowan: I have a few questions.

5585 C. D. JOHNSON was recalled as a witness, and having been previously sworn, testified as follows:

Mr. Cowan: What is the total cut approximately of the Frost-Johnson interest represented by you gentlemen?

Mr. Frost: Approximately 183 million feet of lumber in 1910.

Mr. Cowan: Pine?

Mr. Johnson: Pine.

Mr. Cowan: What per cent of that goes east of the Mississippi River, say?

Mr. Johnson: I can give you that in detail in a day or two.

Mr. Cowan: All right; I would rather let it go, then.

Mr. Johnson: I can give it to you accurately.

Mr. Cowan: If you will, I will be obliged to you. And if you can, give what goes on or off the Missouri River.

Mr. Johnson: I will give it to you by states.

Mr. Cowan: That will be very good. You stated the other day your sales agencies. Is it or not a fact that since the lumber market has been somewhat dull or at least I hear the lumber men all say that, and assume it to be true, that there has been a sharp
5586 competition between mill men in the supplying of extensive contracts for railroads, and so forth, and large dealers who own retail yards, has there been a sharp competition in the sale?

Mr. Johnson: There always has been sharp competition, but we handle very little of that kind of business. Our company manufactures very little railroad material. Nearly all of our lumber goes to smaller yards throughout the country, towns of 10,000 people and under. We do not handle many large contracts with any one concern.

Mr. Cowan: Do you know whether it is a fact that there is a uniformity in the retail price to the consumer by the retail yards in given cities, for example, take a city like Wichita, Kansas, or Atchison, or Topeka, or a place like Omaha or Fort Worth, Texas, and the like of that—whether there is a uniformity in the price at which lumber is sold to the consumer at any given point.

Mr. Johnson: I do not think there is much uniformity about the price.

Mr. Cowan: I am speaking now of the price of the lumber yard retailers.

Mr. Johnson: I know; the retail men. Their competition is about

as lively as anybody else's. They are competing all the time
5587 with each other. My observation is there is no uniformity about their prices.

Mr. Cowan: In what manner would a sale of lumber be made by your concern at some town you may name in Kansas or Oklahoma, is it done by sending a man out there to solicit the business, or by an order sent to your house here?

Mr. Johnson: It is done in various ways. We have 24 or 25 salaried men traveling in various parts of the country soliciting orders for lumber. Then we follow that with correspondence and send them our prices and write to the dealers for orders, and so forth.

Mr. Cowan: Do you print weekly or monthly prices of standard sorts of lumber that go out to your customers?

Mr. Johnson: We have no; we change our prices sometimes in a day.

Mr. Cowan: Either daily, weekly or monthly lists?

Mr. Johnson: We usually wire these men or call them on the phone and tell them what price to make, to raise the price of this or lower the price of that.

Mr. Cowan: What I am speaking of is a price list. Do you print a price list which forms the basis of price to begin on, although you may sell below it?

5588 Mr. Johnson: There is a sort of basis price list and then they use concession sheets from that.

Mr. Cowan: You do it substantially I suppose as concerns like the Kirby Lumber Company? They print a list, I think they do, as I have seen it introduced in some of these cases, and other concerns print a list of prices, and that is mailed out over the country.

Mr. Johnson: We have not sent out what is known as a printed list broadcast in several years. Most of our lumber is sold through our traveling men and correspondence, and we quit the issuance of a general price list several years ago.

Mr. Cowan: The price at which you actually sell to the retailer is not a matter that is accessible to your competitors, I presume?

Mr. Johnson: No, sir; I guess they find out our prices most all the time, but ——

Mr. Cowan: You have, though, a list price and then you sell, dependent on circumstances, sometimes with concessions of greater or less amounts from that price list?

Mr. Johnson: Yes, sir.

Mr. Cowan: And your salesmen of course are furnished
5589 with those?

Mr. Johnson: They get their instructions from us, and we make our prices in accordance with the stocks we have on hand.

Mr. Cowan: Now, suppose you come to Wichita, Kansas, I just use it because I happen to think of the place, and your traveling salesman wants to sell lumber to some lumber yard there, the retailer of course gets his price from your salesman or maybe he gets it by telephone, anyway, you are finding out what price your competitor may make that man for the same sort of bill?

Mr. Johnson: No, sir, we do not pay any attention to it. We set our own prices, and let our competitors do the same.

Mr. Cowan: Is there any uniformity in the price which different lumber manufacturers make on the same style of material, the same kinds of lumber?

Mr. Johnson: Well, sometimes they probably quote the price pretty close together, and other times it will vary from $2.00 to $3.00 a thousand for the same items; it depends how bad they want the order, and what condition the order files are in at the mills.

Mr. Cowan: Do you, in the operation of your business,
5590 have a figure on your stock which you will not go below, and which figure involves or means a profit in your business of not less than so much? Do you have a basis where you will not go below it, because if you did you would not get much profit.

Mr. Johnson: There has been no bottom price I have heard of in the last three or four years.

Mr. Cowan: Well, that is the way I have heard it. That being the case, is it not a fact that the man who is situated where he can mill his lumber and fix a delivered price to the retailer to whom he sells, I believe you call him the dealer, to the best advantage; that is, where the mill owner or operator can make the most profit, then he is more likely to change his price to get the order than the man who is at a higher expense in making the delivered price.

Mr. Johnson: Well, the expense of making the lumber does not have much to do with the price you sell it at. You have got to sell it at the best price you can get for it, regardless of what it costs you. We are operating eight saw mills and it costs a different price at each place. The cost of each place is different, because the conditions are different. Possibly one plant can produce lumber cheaper than another plant, better equipment and better
5591 arranged and possibly the logging operations can be carried on cheaper at one place than it can at another, and there are no two saw mills that I know of that mill lumber at exactly the same price; they all vary.

Mr. Cowan: Do you estimate in the preparation of your saw mill business——

Mr. Walter: Just a moment. How much longer will this method of questioning continue?

Mr. Cowan: Just a minute.

Mr. Walter: There are some other tap lines to be heard, ... witness will be available next week at Chicago.

Mr. Johnson: I do not know whether I will or not. I would prefer to finish it here.

Mr. Cowan: Just one other question at this time. Do you carry on the books of your various companies or in the aggregate your timber at an estimated value per thousand in the forest, counting that as being one of the items of cost in the production of lumber? I understand some saw mills carry the timber at so much a thousand feet and so much at another price, which is an item of expense to which is added all the other expenses of production. Some carry it at $4.00 a thousand, and others at five.

5592 Mr. Johnson. All our timber has been carefully estimated, and it is carried on our books at exactly what it costs the company, $3.00 a thousand, and the interest charge is added on it, and it is a trifle higher than $3.00. Now, when that timber is manufactured at these various plants the manufacturing department is charged with $4.00 a thousand for the timber as they cut it; that is what the saw mill pays for its raw material, $4.00 a thousand, and the land and timber gets credit for $4.00 a thousand.

Mr. Cowan. I have heard that——

Mr. Johnson. Was that the information you wanted?

Mr. Cowan. Yes. I just wanted it in the record; it had not been testified to before. So that a saw mill, in estimating how much its lumber in its yards has cost it to put it there, estimates some amount, generally a fixed amount, of so much for the raw material.

Mr. Johnson. We use an arbitrary price, $4.00 a thousand.

Commissioner Harlan. What does that include?

Mr. Johnson. That is standing timber, that is for the tree, the raw material which goes into the manufacturing department at $4.00 per thousand.

Commissioner Harlan. Is that $4.00 per thousand at the
5593 mill?

Mr. Johnson. No, sir, in the woods before the tree is cut.

Mr. Cowan. And what scale do you use?

Mr. Johnson. Why, we use the Doyle Scribner scale, the customary scale in that part of the country we are operating in.

Commissioner Harlan. You say it costs more at some mills than at other mills to get out your lumber?

Mr. Johnson. Yes, sir.

Commissioner Harlan. When you figure out the total cost of the operation of each mill, do you include the railroad operations and the results of the railroad operations?

Mr. Johnson. No, sir; they have nothing to do with the cost of making the lumber.

Commissioner Harlan. When you figure out at the end of each year the results of your milling operations at any given point, and want to ascertain what that investment has earned and what it has cost, do you include the results of the railroad operations in the general round-up of the figures?

Mr. Johnson. There has never been but one of our railroads which ever paid a dividend, and I did not know that until Mr. Frost testified here awhile ago, about a little bit—it was the first
5594 dividend we ever received.

Commissioner Harlan. That is not the question. I want to know how you figure up your investment at each one of these places. In figuring it up at the end of the year, do you not figure up the railroad operations whether they give you a profit or deficit, as a status?

Mr. Johnson. No, sir; they are not taken into account at all. I would be glad to show you one of our cost sheets——

Commissioner Harlan. If there is a loss in the railroad operation at a particular mill, and Mr. Scott so indicated this morning, in

getting at the returns on that investment at that particular place, do you not include that loss?

5595 Mr. Johnson: If there is a loss, it would show in this way, that particular railroad company would owe the Frost-Johnson Lumber Company the amount of money that it might have loaned it, and it would appear as an asset on our books. It has nothing whatever to do with the cost sheet; The railroad operations do not enter into our lumber cost sheets in any way or form.

Commissioner Harlan: What about the railroad where you get no allowance, and the railroad is not incorporated?

Mr. Johnson: The same thing: Our books are kept exactly the same at all these points. Our lumber books and cost sheets are all kept alike. We have those accounts uniform. The raw material is all charged at the same price, and the logging is in at what it costs; and the sawing and all these various costs in detail, and the railroad operations have nothing whatever to do with the cost of making lumber.

Commissioner Harlan: I have so understood in a general way, but I again put the question to you: You have an investment down there in this Mansfield Territory, to use that name to describe what I mean; it includes a lumber mill and forest and a railroad. Now, it is a matter of no interest or concern to you to know what return you are receiving on that investment, and can you know

5596 without including the results of the operation of the railroad?

Mr. Johnson: Our lumber business is one cost, our railroad business is another, and there is no profit at all in the operation of these lines, and if there was a profit in them it would not be taken into account in the manufacure of lumber.

Commissioner Harlan: Well, you have said that before.

Mr. Johnson: Well, I say it again.

Commissioner Harlan: Now I ask the question again: You have an investment in a given territory, and you want to know whether that is paying you, and if so, how much. Now, do you include the railroad operations in ascertaining that?

Mr. Johnson: We have approximately a million dollars of railroad equipment—— .

Commissioner Harlan: I am putting a particular question to you with reference to a particular investment in a particular part of the country. Now I would like your answer, not a general answer, but an answer to that question, which is, when you come to ascertain how much of a return you are getting on your total investment down in this Mansfield territory, do you ignore the railroad

5597 operations, and the result of the railroad operations?

Mr. Johnson: Absolutely ignore it.

Mr. Coleman: You are carrying on your lumber books the loans which have been made to the railway companies covering certain deficits in operation? That is correct?

Mr. Johnson: That is correct.

Mr. Coleman: You have stated that with one exception these railroads have never made a dividend, but all have run at a deficit, and always will.

Mr. Johnson: I did not say they always would. I said they always had.

Mr. Coleman: Well, do you except any improvement in the situation?

Mr. Johnson: We hope there will be.

Mr. Coleman: Unless there is a material improvement ultimately, the lumber company will have a debt against the railroad company which the railroad company never can pay. You would have to figure that in figuring your investment, would you not?

Mr. Johnson: Well, if the railroad owns the lumber company some day we will try to get the money.

5598 Mr. Coleman: But under present circumstances you have no hope of ever running those railroads—at the time the loan was made you had no prospect of ever running the railroad without a deficit?

Mr. Johnson: Well, I did not say that. We always have had hopes.

Mr. Coleman: That is all.

Commissioner Harlan: Let me pursue my inquiry a little further. You say in ascertaining the amount of your return on your investment in the Mansfield territory you absolutely ignore the result of railroad operations in these other territories where you have investments.

Mr. Johnson: Yes, sir.

Commissioner Harlan: Then when you prepare a trial balance of the investment of the Frost-Johnson Lumber Company, you absolutely exclude the results of the railroad operations.

Mr. Johnson: Yes, sir.

Commissioner Harlan: What, because of this 20 per cent dividend on the Bodcow Valley Railroad, was that ignored?

Mr. Johnson: I think that was taken—it ought to have been taken into profit and loss account of the Frost-Johnson Com-

5599 pany.

Commissioner Harlan: In that case the result of the operations of that road were not ignored, and did get into the accounts of the Frost-Johnson Lumber Company.

Mr. Johnson: That is where they would belong if there was any profit.

Commissioner Harlan: That is where you would look for them?

Mr. Johnson: Yes.

Commissioner Harlan: Very well. If there was a deficit at Mansfield, would it likewise be found somewhere in the accounts of the Frost-Johnson Lumber Company?

Mr. Johnson: No, sir; that would be found in an item of indebtedness of the Mansfield Road to the Frost-Johnson Lumber Company.

Commissioner Harlan: But it would not be found in the Frost-Johnson Lumber Company's accounts?

Mr. Johnson: Yes, it would be found in their accounts. Their accounts would show they had that much money coming from that railroad company.

Commissioner Harlan: In other words, the results of the operations of all these railroads do get into the accounts of the Frost-Johnson Lumber Company, as shown in the yearly trial
5600 balances.

Mr. Johnson: They do not.

Mr. Cowan: In the case of the Mansfield investment, if you lose $20,000, that is to say if you had to pay the money out, the Frost-Johnson Company had to pay the money, do you mean to say your cash account would not show that you paid that out?

Mr. Johnson: If you would loan somebody money that does not necessarily carry with it that you have lost that money.

Mr. Cowan: Oh, no——

Mr. Johnson: They may earn it in two, three or five years from now and pay it back to you.

Mr. Cowan: That might be so, but the prospect here does not seem to be very good on that end of it. But your account must show——.

Mr. Johnson: It shows just like I told you.

Mr. Cowan: That there is that much paid out that is not available, therefore, for dividends or for surplus?

Mr. Johnson: Those accounts show just like I have stated they show.

Mr. Cowan: I mean do you charge off from year to year in the Frost-Johnson Lumber Company's statement any of the in-
5601 debtedness that the railroads owe you so far as an asset of the Frost-Johnson Lumber Company is concerned?

Mr. Johnson: No, sir.

Mr. Cowan: You carry it then as an asset?

Mr. Johnson: Yes, sir.

Mr. Cowan: Non-revenue producing.

Mr. Johnson: Dead asset, until you get the money. Some day we hope to get the money.

Commissioner Harlan: If you never get it to that extent the investment of the Frost-Johnson Lumber Company is impaired, is it not?

Mr. Cowan: Yes, it might be to whatever the extent of that indebtedness might be.

Mr. Cowan: I thought you were about to say a while ago when interrupted, that you would be glad to show him, and you went that far, and I suppose you meant some sort of annual statement you might have, whatever it was. I would like to show what it was you said.

Mr. Johnson: I told Commissioner Harlan: I would be glad to show him our detailed cost sheets showing him exactly what it cost to make lumber at each point, showing just what they are made up of. I do not know as we would have any particular objec-
5602 tion to filing them with the Commission. We would talk it over. I cannot think of any objection to it right now.

Mr. Cowan: I did not know what you had in mind. You did not complete the statement a while ago.

Commissioner Harlan: The cost sheet of any particular operation,

we will say again in the Mansfield territory, would it show what disposition is made of the operating expenses of the logging road?

Mr. Johnson: No, sir. Those logs come to us at an arbitrary price. The logging company owns its own teams and tools and equipment in the woods, and puts these logs on the car up to our various points at a rigid price, and all the details of the cost of cutting the tree, hauling the log up to the spur track, building the spur track and laying the track and operating it, is kept by them. They keep all that on their books.

Commissioner Harlan: It is precisely for that reason that I used the word "result," as I tried to get from you information as to whether you carried the results of the operations of the railroad companies in the accounts of the Frost-Johnson Lumber Company, or whether you carry the results of the operations of the
5603 logging company into the accounts of the Frost-Johnson Lumber Company in order to ascertain whether, for example, in the Mansfield region, your whole investment there is returning an adequate reward, and if so, what the amount of it is, and I understood you to say those things were ignored.

Mr. Johnson: Well, I do not know; I think possibly to make that plain we would have to file our cost sheets. I have stated it is plainly as I can, that the railroad operations do not enter into the cost of making our lumber.

Mr. Walter: We will file the cost sheet. We will talk it over.

Commissioner Harlan: I do not think it is at all necessary unless Judge Cowan would be interested.

Mr. Cowan: No, I just asked him what it was that he said he would submit.

Mr. Gaughan: I rather think that the witness and the Commissioner have a misconception of the idea. The books of the logging company would show, I think, all that the Commissioner is inquiring about, and the books of the railroad company would show its business and the books of the mill company would show its
5604 business, and taking the three sets, it would show it all.

Commissioner Harlan: I do not think there is any misunderstanding on my part what I wanted to get from this witness, or any misunderstanding of what he said.

Mr. Walter: Suppose they own bank stock, the income on that bank stock would have nothing to do with the cost of lumber.

Commissioner Harlan: I have not at any time spoken of the cost of lumber, the cost of running the mills or railroad or logging company. I directed the attention of the witness to the investment of the Frost-Johnson Logging Company lands and a railroad company, and a logging company, and asked him whether the results of the operations of the railroad company appeared in the accounts of the Frost-Johnson Lumber Company with respect to that total investment, and he said they did not, they were absolutely ignored.

Mr. Walter: All these separate corporate investment- of the Frost-Johnson Lumber Company are kept separate and distinct by themselves, is not that right?

Mr. Johnson: Yes.

Mr. Walter: You do not segregate as to *tes* territory at all?
5605 Mr. Johnson: No.

(Witness excused.)

Commissioner Harlan: Is the Trinity Valley & Northern here?

Mr. Walter: It is here. I do not know whether it is in the room at this moment. We were told that that case and the Brookings and Peach Orchard case would be taken up to-night. Now the Peach River lines are all here, and they were before the Commission at New Orleans, and have been here all this week, and we would like, if it would not be asking too much, to get them heard to-night.

Commissioner Harlan: How many cases are involved?

Mr. Walter: Only three. Only one is getting a division, and the other two are not, and complaints are on file in all three cases. It will be impossible for one of those witnesses to be in Chicago next week.

Commissioner Harlan: Have your witnesses come forward and be sworn.

(Several witnesses were then sworn.)

Mr. Walter: On the general organization of the concern Mr Miller will testify, and as to the detailed traffic the other witnesses will testify.

5606 *Galveston, Beaumont & Northeastern Railway, Riverside & Gulf Railway, Peach River & Gulf Railroad.*

A. W. MILLER was called as a witness, and having been duly sworn, testified as follows:

Direct examination:

Commissioner Harlan: Where do you reside?

Mr. Miller: Galveston, Texas.

Commissioner Harlan: What is your business?

Mr. Miller: I am engaged in the lumber business and railroad business.

Commissioner Harlan: With what companies?

Mr. Miller: I am President of the Miller-Vidor Lumber Company.

Commissioner Harlan: And of what railroad company?

Mr. Miller: Connected with the Galveston, Beaumont & Northeastern, the Riverside & Gulf Railway, and the Peach River & Gulf Railway Company.

Commissioner Harlan: I direct your attention first to the Peach River & Gulf Railway Company. What are the termini
5607 of that line, and how long is it?

Mr. Miller: The Peach River & Gulf Railway extends from Timber, which is its junction station with the Gulf, Colorado & Santa Fe about 14 miles southeast.

Commissioner Harlan: To Midline, Texas?

Mr. Miller: Yes, sir, it crosses the Houston, East and West Texas, at Midline, Texas.

Commissioner Harlan: It is a standard gauge road?
Mr. Miller: Yes, sir.
Commissioner Harlan: It owns no locomotives, does it?
Mr. Miller: Yes, sir, it owns two.
Commissioner Harlan: How many does it lease?
Mr. Miller: It does not lease any at present.
Commissioner Harlan: What freight cars has it?
Mr. Miller: It has about thirty cars.
Commissioner Harlan: What is its capital?
Mr. Miller: $100,000.
Commissioner Harlan: It is all issued?
Mr. Miller: Yes.
Commissioner Harlan: And is owned by the Lumber Company or the same interests that own the lumber company?
Mr. Miller: Yes, sir, it is owned by individuals for the
5608 benefit of the lumber company.
Commissioner Harlan: Substantially one investment, is it not?
Mr. Miller: Yes, sir.
Commissioner Harlan: Where is the mill situated?
Mr. Miller: The mill is situated at the junction point at Timber.
Commissioner Harlan: How far from your connection?
Mr. Miller: The saw mill is situated right at the connection.
Commissioner Harlan: The connection of the Peach River & Gulf Railroad with what other line?
Mr. Miller: With the Santa Fe.
Commissioner Harlan: Has the Santa Fe a switch track into your planing mill, or alongside?
Mr. Miller: I think we own the tracks there.
Commissioner Harlan: Do you own the real estate?
Mr. Miller: Yes, sir.
Commissioner Harlan: When you say "we," do you mean the lumber company or the railroad company?
Mr. Miller: The railroad company.
Commissioner Harlan: Has it a deed to the real estate
5609 on which this track is built?
Mr. Miller: I could not say whether that land stands in the name of the lumber company or the railroad company.
Commissioner Harlan: Do you know who furnished the steel, who built the switch tracks?
Mr. Miller: My impression is that we had the tracks built by the Santa Fe at our expense.
Commissioner Harlan: As a matter of fact is not the saw mill itself on property that does not belong to the mill company?
Mr. Miller: No, sir.
Commissioner Harlan: It does belong to the mill company?
Mr. Miller: The saw mill is situated on the mill company's lands.
Commissioner Harlan: Can you ascertain who owns the real estate on which this switch track is built?
Mr. Miller: Yes, I can furnish you that information, but I can

say to you now that it belongs either to the lumber company or railroad company.

Commissioner Harlan: I would like to know which one it belongs to, and also who furnished the steel. Was that furnished by the Santa Fe?

Mr. Miller: Well, those tracks were built in there——

Commissioner Harlan: Is it not true you have a switch
5610 track agreement with the Santa Fe?

Mr. Miller: Possibly we have. Those tracks were put in there some eight years ago, and I do not recall the circumstances now.

Commissioner Harlan: I wish you would ascertain that fact too, and if you have such an agreement let us have a copy of it. What steel is used on this line?

Mr. Miller: 35 and 40 pounds.

Commissioner Harlan: Ballasted, is it?

Mr. Miller: The track is surfaced.

Commissioner Harlan: Have you any logging lines adjoining it?

Mr. Miller: Spurs.

Commissioner Harlan: Spurs?

Mr. Miller: Yes, sir.

Commissioner Harlan: By whom are they owned?

Mr. Miller: By the railroad company.

Commissioner Harlan: The spurs into the woods are owned by the railroad company?

Mr. Miller: Yes, sir.

Commissioner Harlan: What is the total mileage of the spurs?

5611 Mr. Miller: Well, we have not asked about that recently. I suppose we have possibly twenty miles all told of main line and spurs.

Commissioner Harlan: Does the lumber company own any logging roads connected with your main line or your spurs?

Mr. Miller: No, sir.

Commissioner Harlan: Does the lumber company operate any road at all?

Mr. Miller: No, sir.

Commissioner Harlan: You operate the main line and the spurs?

Mr. Miller: We operate all the trains.

Commissioner Harlan: And the lumber company has no locomotives and no cars.

Mr. Miller: No.

Commissioner Harlan: Who loads the cars in the woods?

Mr. Miller: The lumber company's woods crews load them.

Commissioner Harlan: Do not your train crews participate in that?

Mr. Miller: No.

Commissioner Harlan: How many train crews have you?

Mr. Miller: Well, we operate one train a day, one round
5612 trip a day, and we have one crew, and then we have the switch crew.

Commissioner Harlan: And it is your understanding that the train crew does not assist at all, but simply stands by while the loading is being done?

Mr. Miller: I could not say definitely as to that. I suppose they are kept busy, and are used whenever they can be.

Commissioner Harlan: Is it not your best recollection and judgment that they do participate in the loading of the cars?

Mr. Miller: No, it is not.

Commissioner Harlan: Well, they unload them at the farm, do they not?

Mr. Miller: Yes, sir, they help in the unloading.

Commissioner Harlan: What charge does the railroad make to the lumber company for hauling the logs to the mill?

Mr. Miller: I would prefer to have Mr. Hole, who is with me, and who is General Manager of this and the other roads, answer that. He has it in his head and right, and I would prefer him to answer.

Commissioner Harlan: Are you familiar with the account?

Mr. Miller: In a general way.

Commissioner Harlan: You are also familiar with its traffic?

5613 Mr. Miller: In a general way.

Commissioner Harlan: Does it carry any outside traffic?

Mr. Miller: It carries the outside traffic that is offered.

Commissioner Harlan: Has it any mail or express?

Mr. Miller: No, it has no mail or express.

Commissioner —: Passenger traffic?

Mr. Miller: It carried passengers when they are offered; there is very little passenger traffic.

Commissioner Harlan: You do not run any passenger coach?

Mr. Miller: We run a coach, yes, sir.

Commissioner Harlan: You do not have a schedule time card?

Mr. Miller: Yes, sir, we have a departing and arriving time; there is more or less irregularity in the operation.

Commissioner Harlan: Does it move every day?

Mr. Miller: Oh, yes.

Commissioner Harlan: One or more trips?

Mr. Miller: One trip a day, and sometimes an extra trip.

Commissioner Harlan: To what point?

Mr. Miller: Well, it moves out to——

Commissioner Harlan: To Midline?

Mr. Miller: At present we are not operating that track to Midline. We have temporarily discontinued it on account of

5614 the loss of a long bridge which burned down last year.

Commissioner Harlan: How far do you run your passenger coach?

Mr. Miller: About ten miles.

Commissioner Harlan: To what point?

Mr. Miller: To a place we designate on the line as Walkerville.

Commissioner Harlan: Do you sell tickets?

Mr. Miller: No.

Commissioner Harlan: Have you printed tickets?

Mr. Miller: No.

Commissioner Harlan: Do you make a charge?

Mr. Miller: Yes, sir.

Commissioner Harlan: What is your ordinary daily revenue for passengers?

Mr. Miller: I could not say.

Commissioner Harlan: I understood you were familiar with the finances.

Mr. Miller: In a general way.

Commissioner Harlan: It is very small?

Mr. Miller: Yes.

Commissioner Harlan: Most of your traffic is for the lum-
5615 ber company?

Mr. Miller: Yes.

Commissioner Harlan: You have no traffic outside except you are asked to move a carload of steel?

Mr. Miller: Yes, sir, steel cars and logs, miscellaneous stuff for other people.

Mr. Cowan: About what is the percentage of that traffic from them?

Mr. Miller: Mr. Hole can give you that information.

Commissioner Harlan: Has the company any bonded indebtedness?

Mr. Miller: No.

Commissioner Harlan: Any current account in the form of notes?

Mr. Miller: Yes, it owes some money.

Commissioner Harlan: To who?

Mr. Miller: To the lumber company.

Commissioner Harlan: What is the aggregate amount of that?

Mr. Miller: I have not got those figures.

Commissioner Harlan: Well, it is to cover what you call deficit in operation?

Mr. Miller: Yes, and investment.

5616 Commissioner Harlan: I direct your attention to the Galveston, Beaumont & Northeastern Railroad Company. That seems to run from Vidor, Texas to what, De Sanque?

Mr. Miller: Yes, sir.

Commissioner Harlan: What is the length of the main line?

Mr. Miller: The main line all told, as operated now, is about 17 miles, which includes six miles of trackage rights over the Kansas City Southern Railway.

Commissioner Harlan: Of your own main line you only have about eight miles?

Mr. Miller: About 11 miles.

Commissioner Harlan: What spurs and trackage have you?

Mr. Miller: I could not say exactly. I presume four or five miles.

Commissioner Harlan: By whom is that company owned?

Mr. Miller: It is owned by various parties. I have a list of the stockholders of all these lines here, which I would be glad to file, if you want it.

Commissioner Harlan: I do not want the stockholders, but it is

owned by the lumber company with which it is connected, is it not, substantially the same people?

Mr. Miller: It is a $100,000 corporation; $93,000 is held
5617 by the Central Trust Company of Illinois, and the balance is held by the individuals.

Commissioner Harlan: In what interest is that stock held?

Mr. Miller: In the interest of bondholders.

Commissioner Harlan: The company has a bonded indebtedness?

Mr. Miller: It is a collateral—that stock is held——

Commissioner Harlan: Let me put just a general question which will shorten up the examination. What company owns the mill at Vidor?

Mr. Miller: There is no mill at Vidor?

Commissioner Harlan: Where is it?

Mr. Miller: At Beaumont.

Commissioner Harlan: What company owns that?

Mr. Miller: The Miller-Vidor Lumber Company.

Commissioner Harlan: Substantially the same interests that own that company own the railroad?

Mr. Miller: Yes, sir.

Commissioner Harlan: So practically for all purposes it is one investment by the same people?

Mr. Miller: In a large measure.

Commissioner Harlan: How do the logs get to the mill; just describe the method.

5618 Mr. Miller: The railroad company operates the spur track.

Commissioner Harlan: The train is loaded out on the spur track and carried by the railroad company to what point?

Mr. Miller: They are carried over the rails of the Galveston, Beaumont & Northeastern to Vidor, which is the junction with the Kansas City Southern, and then operated over the Kansas City Southern tracks into the town of Beaumont, through the town of Beaumont to the sawmill.

Commissioner Harlan: The saw mill is on the tracks of the Kansas City Southern?

Mr. Miller: The saw mill is on the tracks of the Kansas City Southern, yes.

Commissioner Harlan: In other words the Galveston, Beaumont & Northern has no tracks at the mill?

Mr. Miller: Yes, it has some tracks at the mill.

Commissioner Harlan: Well, just explain that. Do your logging trains get on to those tracks in delivering the logs at the mill?

Mr. Miller: Yes, sir.

Commissioner Harlan: Where is the pond, is it near the mill?

Mr. Miller: Yes, the mill is situated on the banks of the Neches River, and our boomage cranes are in that river. The Kan-
5619 sas City Southern originally owned a track connection just outside the limits of Beaumont which runs down to our saw mill. We added to that some tracks of our own in order to reach the river, and we operate our own trains for logs and for lumber, and for all commodities moved in or out of that saw mill.

Commissioner Harlan: Now the Kansas City Southern still owns the track that it originally owned into the mill?

Mr. Miller: It owns the tracks, but we operate it under lease.

Commissioner Harlan: Under trackage agreement?

Mr. Miller: Yes.

Commissioner Harlan: And you carry your logs off that track on to the pond or the river, do you?

Mr. Miller: Yes, sir.

Commissioner Harlan: And they are there dumped into the river?

Mr. Miller: Yes.

Commissioner Harlan: By employees of the railroad company?

Mr. Miller: Yes.

Commissioner Harlan: Then the logs are taken out of the river by the mill?

Mr. Miller: Yes, sir.

5620 Commissioner Harlan: And manufactured?

Mr. Miller: Yes.

Commissioner Harlan: And the loading of cars with manufactured lumber is done on the tracks of the Kansas City Southern?

Mr. Miller: On tracks the title to which is in the Kansas City Southern, but which are ours under right of operating contract, and we have in the yard at Beaumont what we call our interchange tracks where we deliver all our traffic and get all our empty cars. The mill is located, as you will see by that map, about three miles away from the yards in Beaumont, and we go in there on that interchange with our engines and get the empty cars, and take them down to our plant, and load them, and after a while we take them back and put them on that interchange where they are delivered to our connections at Beaumont.

Commissioner Harlan: Tell us what this trackage arrangement is, and how much it costs you.

Mr. Miller: I cannot do that from memory. That contract was made some years ago. I made it, but I haven't it in mind. I would be glad to file a copy, if you require it.

Commissioner Harlan: Is it a yearly rental, or a per train

5621 rental, or per car rental?

Mr. Miller: I think originally we figured on a per ton mileage basis, but that was rather cumbersome and expensive to check up, and we finally sort of compromised it on either a monthly or annual basis.

Mr. Walter: Mr. Hole can tell you about that.

Mr. Cowan: I did not get the haul to and from the interchange track.

Mr. Miller: About three miles, making about a six mile movement down and up.

Commissioner Harlan: Who sets the empty car at the mill?

Mr. Miller: The Galveston, Beaumont & Northeastern.

Commissioner Harlan: You take the loaded car back to the interchange track?

Mr. Miller: Yes.

Commissioner Harlan: I do not want to encumber the record with

more details of your finances than seems to be necessary, but what is the bonded indebtedness of your railroad company?

Mr. Miller: The railroad company has no direct bonded indebtedness.

Commissioner Harlan: Well, just tell us what that situation is.

5622 Mr. Miller: The timber lands belonging to the lumber company located in Orange and Jasper Counties are bonded, and the stock of the railroad company is deposited under a certain agreement as additional security for that obligation.

Commissioner Harlan: For the obligation covering the land?

Mr. Miller: Yes, sir.

Commissioner Harlan: Now you do not know about the traffic on that road?

Mr. Miller: No.

Commissioner Harlan: Let me ask in a general way, have you any outside traffic?

Mr. Miller: In a general way.

Commissioner Harlan: Do you carry passengers?

Mr. Miller: Yes.

Commissioner Harlan: Mail?

Mr. Miller: Yes.

Commissioner Harlan: Express?

Mr. Miller: We have no express contract. We carry some out.

Commissioner Harlan: Any general merchandise?

Mr. Miller: Yes.

5623 Commissioner Harlan: To what towns? Have you any towns on your line?

Mr. Miller: There is a considerable settlement along the line.

Commissioner Harlan: You do not take any merchandise back and forth from any point on the track from the Kansas City Southern where you have trackage rights?

Mr. Miller: No.

Commissioner Harlan: You do not originate or deliver any traffic there?

Mr. Miller: No.

Commissioner Harlan: The tonnage mainly is your own lumber, is it not?

Mr. Miller: Principally.

Commissioner Harlan: The other is very small, as I understand?

Mr. Miller: I think we have filed reports for all of these roads with your Commission, and I think they show in detail exactly what it is.

Mr. Walter: There is a detailed statement attached to each group of these three lines.

Commissioner Harlan: Perhaps the other witness can give

5624 those details. Do you recall that your trackage arrangements involve a payment by you, the railroad company, to the Kansas City Southern, of $27.50 a train? Does that refresh your recollection?

Mr. Miller: No, sir.

Commissioner Harlan: You are not prepared to testify?

Mr. Miller: I do not understand that that is the case.

Commissioner Harlan: The Riverside & Gulf is a Texas corporation organized under the general railroad laws?

Mr. Miller: Yes.

Commissioner Harlan: Owned by whom?

Mr. Miller: By stockholders.

Commissioner Harlan: It runs from Milvid Junction to what other Points?

Mr. Miller: It runs from Milvid Junction to a point called Coy.

Commissioner Harlan: Standard gauge?

Mr. Miller: Yes, sir.

Commissioner Harlan: About sixteen miles long?

Mr. Miller: I do not think there is but about 12 miles of main line there. There is probably 20 or 25 miles of tracks, spurs and turnouts.

Commissioner Harlan: It is all owned and operated by the railroad.

5625 Commissioner Harlan: Where is the mill?

Mr. Miller: The mill is situated at Milvid, about 1½ miles south of Milvid Junction.

Commissioner Harlan: Your connection is the Gulf, Colorado & Santa Fe?

Mr. Miller: Yes, sir.

Commissioner Harlan: Any other connection?

Mr. Miller: No.

Commissioner Harlan: How close is the mill to the main track of the Gulf, Colorado & Santa Fe?

Mr. Miller: About one mile.

Commissioner Harlan: Has it a spur track running into the planing mill, the Gulf, Colorado & Santa Fe?

Mr. Miller: No.

Commissioner Harlan: There is a connecting track there, is there not?

Mr. Miller: There is a connecting track there, built by the Riverside & Gulf Railway.

Commissioner Harlan: Who furnished the steel?

Mr. Miller: The Riverside & Gulf.

Commissioner Harlan: Who owns the land?

Mr. Miller: The land is held under an escrow agreement by parties for the lumber company.

5626 Commissioner Harlan: Does the railroad company own the fee of that land?

Mr. Miller: It has the right to take the title at any time it wants it.

Commissioner Harlan: But it has not taken the title?

Mr. Miller: We consider for all practical purposes it has the title.

Commissioner Harlan: What about its general right of way—does it own it?

Mr. Miller: In the same way, we have about forty thousand acres of land.

Mr. Cowan: This railroad runs over land of the lumber company?

Mr. Miller: Yes, sir.

Commissioner Harlan: What arrangement has it for acquiring the right of way title?

Mr. Miller: It has the understanding that the right of way will be conveyed, and deeds will be executed any time it is desirable to have it done.

Commissioner Harlan: Does that depend upon the performance of some condition precedent, the payment of any money or completion of any other act?

5627 Mr. Miller: Yes, sir.

Commissioner Harlan: Tell us what that is.

Mr. Miller: I do not know that I could explain it to you without going into it at too much length, but in substance it means by the payment of so much per acre the railroad company may acquire the fee to the right of way 100 feet wide.

Commissioner Harlan: The mill is owned by the Miller-Vidor Lumber Company?

Mr. Miller: One of the mills on the line.

Commissioner Harlan: Are there two mills on the line?

Mr. Miller: Yes.

Commissioner Harlan: Pine mills, both of them?

Mr. Miller: Pine and hardwood.

Commissioner Harlan: Who owns the other mill?

Mr. Miller: The other mill is owned by T. B. Allen & Company.

Commissioner Harlan: That is an outside interest altogether?

Mr. Miller: Yes, sir.

Commissioner Harlan: I will ask you the same general question in this case: Does the Miller-Vidor Lumber Company own the Riverside & Gulf Railway, or the same interests own both companies?

5628 Mr. Miller: The stock is owned by individuals for its benefit.

Commissioner Harlan: And it is the same general investment?

Mr. Miller: To a large measure.

Commissioner Harlan: Who does the logging on that road?

Mr. Miller: Do you mean who cuts down the timber?

Commissioner Harlan: Yes.

Mr. Miller: And loads the cars?

Commissioner Harlan: Yes.

Mr. Miller: The lumber company.

Commissioner Harlan: There is not any logging company or incorporated company that does the work?

Mr. Miller: No.

Commissioner Harlan: I suppose in this case the same crew helps load the logs as in the other case?

Mr. Miller: I do not think any of our train crews help load the logs. I think the men do help discharge the cars when they get in to where they are ready to dump them.

Commissioner Harlan: Do you mean to say those men just stand around idle and do no work?

Mr. Miller: I will explain to you that we load our logs with steam

appliances requiring a certain class of more or less skilled
5629 labor, and a loader, for instance, is equipped with a crew which loads a train. After those logs are cut down, which is also done by an entirely different class of labor from train hands or men, those logs are drawn up with wire cables by a steam skidder, and that is also handled by a class of men different from the train men. There is nothing there that the ordinary brakeman on a train is either qualified or is expected to do.

Commissioner Harlan: Is the steam loader on wheels?

Mr. Miller: Self-propelling.

Commissioner Harlan: It is not attached to the train?

Mr. Miller: No; both the loader and skidder are self-propelling.

Commissioner Harlan: I do not want to get down to a particularly fine point, but while the process is going on of having the steam loader load those cars, is not the train crew at hand on the cars?

Mr. Miller: No, the train crew would not be there at that time. We operate on that line three locomotives and a self-propelling skidder and a self-propelling loader, and about, I should judge, 60 to 70 mixed cars of various kinds. The main line crew would be moving their train back and forth while another train is being made
5630 up, and if anybody was there it would be the men of the switching crews.

Commissioner Harlan: Well, the switch crews are paid by the railroad company?

Mr. Miller: Yes, sir.

Commissioner Harlan: Do they participate in the loading of the cars?

Mr. Miller: I think not.

Commissioner Harlan: You think they are sufficiently busy in switching?

Mr. Miller: I think so.

Commissioner Harlan: What about this steam loader—is that the property of the railroad company?

Mr. Miller: It belongs to the lumber company.

Commissioner Harlan: And the employees are paid by the lumber company?

Mr. Miller: Yes, sir.

Commissioner Harlan: What service does the railroad company perform for the lumber company besides hauling its logs?

Mr. Miller: It moves all the empty equipment from Milvid Junction to Milvid, and from Milvid Junction to Allendale, the location of the Allen Company's Mill.

5631 Commissioner Harlan: Who does the yard work?

Mr. Miller: The railroad company.

Commissioner Harlan: Of all the saw mills?

Mr. Miller: Yes, sir. And after these cars are loaded it delivers the loaded cars back to the junction.

Commissioner Harlan: Where is the Allen mill?

Mr. Miller: About half a mile south of the Milvid mill.

Commissioner Harlan: What is its output?

Mr. Miller: It has an output of about, I suppose, four hundred cars a year.

Commissioner Harlan: Is it a pine mill?

Mr. Miller: It is a hardwood mill, practically.

Commissioner Harlan: Do you haul logs for it?

Mr. Miller: No.

Commissioner Harlan: It gets them by wagon?

Mr. Miller: No, they haul them themselves.

Commissioner Harlan: And they have a road of their own?

Mr. Miller: No, they have built some spurs of their own, but they have a trackage right over our main line.

Commissioner Harlan: What do they pay for that?

Mr. Miller: They pay about 90 cents a loaded car.

Commissioner Harlan: For going over your line to the Gulf, Colorado & Santa Fe junction?

5632 Mr. Miller: No. For going over our main line from their spur connection to our mill.

Commissioner Harlan: Let me understand about that. Their mill then is not at the junction of their spur with your line?

Mr. Miller: No, sir, their mill is on our main line, and their spurs are some miles away.

Commissioner Harlan: Where does their spur join your line, at the mill?

Mr. Miller: Some miles away from the mill.

Commissioner Harlan: They pay you 90 cents a car for the privilege, with their own equipment, of hauling their logs from a junction to their mill on your line?

Mr. Miller: Yes, sir, that enables them, with proper notice to us, so we may put in the proper track connections at any point on our main line where they want to get off into their timber, which is more accessible, of moving up and down the line.

Commissioner Harlan: And wherever the spur happens to be the rate is 90 cents a car?

Mr. Miller: Yes, sir.

Commissioner Harlan: It does not vary according to distance?

Mr. Miller: No, it is not regulated by the mileage.

5633 Commissioner Harlan: After the hardwood is manufactured, who gets the haul to the Santa Fe?

Mr. Miller: The Riverside & Gulf.

Commissioner Harlan: What is the charge?

Mr. Miller: It is shown in the tariff. Mr. Hole can give you that in detail, and also file the tariffs.

Commissioner Harlan: What is the International Transportation Company?

Mr. Miller: The International Transportation Company is not in existence.

Commissioner Harlan: What was it?

Mr. Miller: It was a company chartered under the transportation laws of Texas some years ago by myself and associates, for the purpose of doing some transportation service up in Grimes County, Texas.

Commissioner Harlan: Not related to this enterprise?

Mr. Miller: No.

Commissioner Harlan: I observe that two of these lines according to your report, sustained a loss last year, that is, there was a net deficit as a result of its operation. Who took care of those deficits?

Mr. Miller: Well, that is a sort of inroad on the invest-
5634 ment, and merely shows that the operation of the lines last year was not profitable.

Commissioner Harlan: When you speak of the investment, you mean the general investment of the lumber company, and——

Mr. Miller: The investment in the railroad company.

Commissioner Harlan: Well, who took care of the matter of supplying the cash?

Mr. Miller: Well, if that loss was of such a nature that actual money was required to meet it, it would be obtained from the treasury of the lumber company.

Commissioner Harlan: On the other hand, one of the other companies showed a net gain from operation of $3300. Was the balance paid over to the lumber company in the same way?

Mr. Miller: No, it would stand to the credit of the treasury of the road.

Commissioner Harlan: Was it not paid on the interest account on the bonds?

Mr. Miller: The interest on the bonds has been met, yes.

Commissioner Harlan: Just how was it met? Would not this $3300 be used for that purpose, as far as it would go?

Mr. Miller: No, the obligation on the bonds is a direct obligation of the lumber company, and the lumber company is charged with the payment of the sinking fund and interest on those bonds.
5635 The collateral trust agreement was in the nature of an additional surety, and the most available thing we had was the stock in this railroad company which we put up. That makes it clear, I think.

Commissioner Harlan: Now, you have three mills and three railroad companies?

Mr. Miller: Yes, sir.

Commissioner Harlan: And what is the name of the company that guides and controls all of those companies and directs the policy of them?

Mr. Miller: Well, I guide and control the three railroad companies largely, with the assistance of Mr. Hole, who is a practical railroad and traffic man.

Commissioner Harlan: Is there any association or company that directs the policy of this investment?

Mr. Miller: No; for convenience we designate these roads as the Peach River Lines.

Commissioner Harlan: That is simply a name?

Mr. Miller: That is simply a name, and no organization.

Commissioner Harlan: But the three railroads are substantially one and the same investment by the same people?

Mr. Miller: I hardly think that would be a fair way to express it. The interests are largely identical, but they are distinct
5636 and separate corporations.

Commissioner Harlan: That is to say you take a mill and its railroad line at one point and the interest of the stockholders may differ somewhat from the interest of the stockholders in the mill at another point.

Mr. Miller: Let me explain it.

Commissioner Harlan: If you will, in your own way. You know what I am after.

Mr. Miller: The Miller-Vidor Lumber Company owns these timber lands and saw mills. At each of these mills there is a railroad organization separate and distinct with its book accounts kept and reports made, and have been for some years. The stock is either held by parties who also own stock in the lumber company, or is held in the interest of parties who own stock in the lumber company. To that extent the interests are identical.

Commissioner Harlan: Does the lumber company carry open accounts with these various mills and various railroad companies?

Mr. Miller: I do not know what you mean by that, sir. The lumber company has a system of accounting, operating accounting with each plant, of course, by which it determines how it is being operated, and the results from time to time. The railroad
5637 company has its own system of accounts and reports to the commission.

Commissioner Harlan: But is it not one cash account?

Mr. Miller: The Miller-Vidor Company has an account with the Peach River Lines. I regret to say that we frequently have had to borrow money from them, and of course that is set up on their books.

Commissioner Harlan: You do not mean that the lumber company has borrowed money from the railroad?

Mr. Miller: No.

Commissioner Harlan: You mean the other way?

Mr. Miller: The railroads have borrowed money, particularly in the case of the Peach River & Gulf, and the Riverside & Gulf, which up to August, 1908, both participated in a division of the through rate in connection with the Santa Fe road. The Peach River & Gulf at that time had an outlet also over the Southern Pacific system from which it received divisions, and the properties were barely self sustaining at that time. They took away these divisions, and we lost our bridge on the Peach River & Gulf line, and in the meantime this agitation came up and not knowing the result, we did not like to spend seven or eight thousand dollars in rebuilding that bridge, and we have been getting along and
5638 borrowing from the lumber company to keep matters going.

Commissioner Harlan: The results of the operation of these three railroads are shown in the accounts of the Miller-Vidor Lumber Company just as the mill operations are?

Mr. Miller: No, sir, not in the same way but——

Commissioner Harlan: But they are there.

Mr. Miller: If there is any money owing to-day by the railroad line to the lumber company, it would stand as a separate item on the lumber company's books.

Commissioner Harlan: Do you have an agent in Washington?

Mr. Miller: Yes, sir, we have a representative there.

Commissioner Harlan: Who is the agent for these lines?

Mr. Miller: We have one man who attends to it. I do not recall his name now; I never met him.

Commissioner Harlan: You are keeping your books under the system prescribed by the Interstate Commerce Commission?

Mr. Miller: Yes.

Mr. Walter: Miss Tenniele is the agent.

Commissioner Harlan: Have you safety appliances on the Riverside & Gulf?

Mr. Miller: It is not fairly equipped with safety appliances. The Galveston, Beaumont & Northwestern is equipped
5639 throughout, and on that line we pay standard wages, and employ that class of men.

Commissioner Harlan: By standard wages you mean union wages?

Mr. Miller: Yes, sir, the other lines not being in a position at present to participate in any state division we have not gone to the expense of equipping them, but we would like to do so, of course, if the situation was not too uncertain.

Commissioner Harlan: Do you pay any attention to the hours-of-service law on these three railroads?

Mr. Miller: Yes, sir, we observe them.

Commissioner Harlan: Have you any questions to put to the witness, so far as we have gone?

Mr. Cowan: No, I think not.

Mr. Coleman: You do not mean to testify you ever received a division from the Santa Fe on the Riverside & Gulf?

Mr. Miller: I do.

Mr. Coleman: Is it not a fact that you did not build in there until after 1908?

Mr. Miller: No, sir.

Mr. Coleman: After the division was cancelled?

Mr. Miller: No.

5640 Mr. Coleman: And you mean then that you did receive divisions?

Mr. Miller: I do.

Mr. Coleman: Was that on Texas business?

Mr. Miller: On what business?

Mr. Coleman: Was it on interstate business?

Mr. Miller: On interstate business.

Mr. Coleman: As to the Peach River & Gulf you often made overtures to the Santa Fe for a division on that road, to Mr. Coleman?

Mr. Miller: No, sir, I did not make any overtures; he made the overtures.

Mr. Coleman: Did you not frequently make overtures for a divi-

sion, and were you not as many times turned down until the Santa Fe built into De Ridder, Louisiana?

Mr. Miller: No.

Mr. Coleman: Did you ever receive a division before the Santa Fe built into De Ridder?

Mr. Miller: I have not information when the Santa Fe built into De Ridder. I do not know anything about it.

Mr. Coleman: When did you first receive a division from the Santa Fe then?

Mr. Miller: I think that the tariffs on file with the Com-
5641 mission would show that. I should say about 1902 or 1903, and up until August, 1908.

Mr. Coleman: I want to ask you definitely, did you ever receive a division on the Riverside & Gulf from the Santa Fe on interstate business?

Mr. Miller: I do, most emphatically.

Mr. Coleman: What was that division?

Mr. Miller: From one to three cents according to my recollection. tion.

Mr. Walter: Do you say he did not?

Mr. Coleman: Absolutely.

Mr. Walter: There is something to be inquired into, to see if he did or did not.

Mr. Miller: Well, you are mistaken about that, Mr. Coleman.

Mr. Coleman: I also wish to state that on the Peach River & Gulf Railway no division was ever paid until the Santa Fe built into De Ridder, Louisiana, and then in order to compete with the Kansas City Southern, a division was given for a short time, but was taken out as soon as——

Mr. Miller: If it is permitted, I would like to make a contrary statement.

5642 Commissioner Harlan: I understood there was another witness who could give more of the details, and we will perhaps suspend that question until tomorrow.

Mr. Walter: Is there anything further from this witness?

Commissioner Harlan: Were you about to make some statement in reply to Mr. Coleman?

Mr. Miller: Yes. Mr. Coleman says there were no divisions paid this road until they built into De Ridder. My impression is they are mistaken, divisions were paid to the Peach River & Gulf in order to compete for its traffic with the Southern Pacific lines. It has put in divisions for itself, and there was—let me see if I have not some dates on that.

Commissioner Harlan: I suggest, Mr. Coleman, that we take up that question in the morning.

Mr. J. J. Coleman: Will Mr. Miller be here in the morning?

Commissioner Harlan: Yes. I understood the other witness would know more of the details.

Mr. Miller: It was in 1904.

Mr. J. J. Coleman: I simply wanted to state on the controversy as to whether Mr. Miller solicited the divisions from me, or whether

I from him, that I would like to cross examine him on that point.

5643 Commissioner Harlan: How long will it take?

Mr. J. J. Coleman: It will take only a few minutes.

Commissioner Harlan: You may ask him.

Mr. J. J. Coleman: Did you ever receive a division from the Santa Fe on lumber business coming from the Peach River & Gulf prior to the time that you received them from the Houston, East & West Texas?

Mr. Miller: I think not.

Mr. J. J. Coleman: How long were you operating the Peach River & Gulf, delivering lumber to the Santa Fe, before you made a physical connection with the Houston, East & West Texas?

Mr. Miller: I should not think for more than a year; possibly a year and a half, but it did not seem to me it could have been that long.

Mr. J. J. Coleman: That is the best of your judgment on that?

Mr. Miller: Yes.

Mr. Coleman: Do you remember any conversations in advance of that connection, with me, apprising me of your plan to connect with the Houston East & West Texas?

Mr. Miller: I do not remember any conversations with you. I did, however, take it up in letter to Mr. Biddle, who at that

5644 time, I believe, was connected with your line.

Mr. Coleman: You do not remember calling my attention to the disabilities you had in competing with others who had tap line divisions?

Mr. Miller: Mr. Coleman, I do not remember those things in detail. You used to come in my office there, and we used to talk about everything on earth, hours at a time. I do not remember all we talked about now.

Commissioner Harlan: I think under the circumstances your own testimony on that point would be the fairest way to get at the matter of divisions. We will adjourn now to meet at nine o'clock tomorrow morning.

Whereupon, at 6 o'clock,, p. m., the hearing in the above matter was adjourned to Saturday, January 28, at 9 o'clock, A. M.

5645 *Alabama Central Railroad Company.*

(After the formal adjournment, Commissioner Harlan then proceeded to hear the case of the Alabama Central Railroad, at the request of counsel, who stated it would be impossible for him to be present on Saturday).

ROBERT W. CHILDS, 826 Federal Building, Chicago, Illinois, then entered his appearance for the Alabama Central Railroad.

ALBERT RUSSELL was called as a witness, and having been duly sworn and examined, testified as follows:

Commissioner Harlan: State your full name.

Mr. Russell: Albert Russell.

Commissioner Harlan: Where do you reside, and what is your business?

Mr. Russell: Manchester, Alabama; Vice-President and General Manager of the Alabama Central Railroad.

Commissioner Harlan: How long have you been associated with that railroad?

Mr. Russell: Since its organization in 1906.

5646 Commissioner Harlan: Was it organized under the laws of the State of Alabama?

Mr. Russell: It was.

Commissioner Harlan: What is its outstanding capital and authorized capital?

Mr. Russell: $100,000.

Commissioner Harlan: Who holds the capital stock in that company?

Mr. Russell: Its stockholders.

Commissioner Harlan: Are they practically the same that hold the stock of the Manchester Lumber Company?

Mr. Russell: No, sir, they are not.

Commissioner Harlan: What is the difference?

Mr. Russell: They own less than forty per cent of the stock of the Manchester Lumber Company.

Commissioner Harlan: That is to say that the minority of the stockholders of the lumber company own a majority of the stock of the railroad company, or all of the stock of the railroad company?

Mr. Russell: All of the stock of the railroad company.

Commissioner Harlan: How many stockholders has the railroad company?

5647 Mr. Russell: Three.

Commissioner Harlan: And those three form a minority of the stockholders of the lumber company?

Mr. Russell: Yes.

Commissioner Harlan: Now, do they own the stock of the railroad company in their own right?

Mr. Russell: No.

Commissioner Harlan: Or as Trustees for the lumber company? or stockholders of the lumber company?

Mr. Russell: In their own rights.

Commissioner Harlan: Do you know that?

Mr. Russell: Yes, sir.

Commissioner Harlan: How do you know it?

Mr. Russell: Well, I am familiar with the transactions and the——

Commissioner Harlan: When was the transaction, and what do you call the transaction?

Mr. Russell: I am familiar with the incorporation of the railroad company, and I know who paid the money and who bought the stock and paid for it.

Commissioner Harlan: These three have been the stockholders of the railroad company since its incorporation?

5648 Mr. Russell: Yes, sir.

Commissioner Harlan: And they furnished the $100,000 with which to build it?

Mr. Russell: Yes, sir.
Commissioner Harlan: What did it cost, $100,000?
Mr. Russell: It cost about $90,000.
Commissioner Harlan: $90,000?
Mr. Russell: Yes, sir.
Commissioner Harlan: It is six miles long, is it?
Mr. Russell: It is nearer 7; about 6.7 miles.
Commissioner Harlan: It has a spur about .20 of a mile long; it is less than six miles long, is it not?
Mr. Russell: No, I think it has 6.7 miles of main line.
Commissioner Harlan: What equipment has it?
Mr. Russell: It has one locomotive and one combination passenger coach and express and mail, and small freight which is handled in that car.
Commissioner Harlan: What freight cars has it?
Mr. Russell: It has none.
Commissioner Harlan: Were you Vice-President and General Manager of this road when it was organized and from its organization?
5649 Mr. Russell: Yes, sir.
Commissioner Harlan: Did you have charge of the construction of the line?
Mr. Russell: Yes, sir.
Commissioner Harlan: It was built under your supervision?
Mr. Russell: Yes, sir.
Commissioner Harlan: And you know what it cost?
Mr. Russell: Yes, sir.
Commissioner Harlan: Was it built through a construction company?
Mr. Russell: No.
Commissioner Harlan: Built by contract?
Mr. Russell: No.
Commissioner Harlan: How was it built?
Mr. Russell: Built by hired teams and hired labor under my own supervision.
Commissioner Harlan: And you know it cost ninety thousand dollars, or in that neighborhood?
Mr. Russell: Yes, sir.
Commissioner Harlan: Did that include the cost of the equipment you have just described?
Mr. Russell: Yes, sir.
5650 Commissioner Harlan: And what did you do with the extra ten thousand dollars; was that working capital?
Mr. Russell: That has not been paid in.
Commissioner Harlan: That has not been paid in?
Mr. Russell: No.
Commissioner Harlan: From what sources was this $90,000 derived, from these three stockholders?
Mr. Russell: Yes, sir.
Commissioner Harlan: Do they own the stock in equal shares, or substantially equal shares?

Mr. Russell: No, sir.

Commissioner Harlan: What is the authorized and issued stock of the lumber company?

Mr. Russell: $150,000.

Commissioner Harlan: And how much do these three stockholders own in the lumber company?

Mr. Childs: I might facilitate this matter here, your Honor. One owns, I think, all except two or three qualifying shares, so all the stock in the Alabama Central is owned practically by one man. that is right, is it not?

Mr. Russell: One man owns all the stock of the Alabama Central excepting two shares; I have one share to qualify as a
5651 director, and L. M. Russell, my brother, has one share to qualify as a director.

Commissioner Harlan: Are you a shareholder in the lumber company?

Mr. Russell: Yes, sir.

Commissioner Harlan: And your brother is?

Mr. Russell: Yes, sir.

Commissioner Harlan: And the other stockholder is?

Mr. Russell: The other stockholder is.

Commissioner Harlan: What proportion of the stock of the lumber company does he hold?

Mr. Russell: He holds less than forty per cent; I do not know exactly how much.

Commissioner Harlan: Who are the other stockholders in the lumber company?

Mr. Russell: There are ten or a dozen others. I have a list there.

Commissioner Harlan: What we want to know, the Commission in this investigation wants to get at all the information it can with the utmost accuracy and candor, not for the purpose of going after any particular company, but for the purpose of ascertaining what broad general principle runs through the situation, and
5652 what we ought to do with it, and we expect the co-operation of all these small companies in our efforts to find out what should be done with the situation. So I have asked the question of all the witnesses here in a very general way, without going into detail whether the interest is substantially the same in the railroad and in the connecting industry.

Mr. Russell: Yes, sir.

Commissioner Harlan: And to avoid prolixity, they have all said that it was substantially the same. Now, is there any fact within your knowledge that would justify you in making the same statement here? Of course the big stockholder in the railroad owning less than forty per cent, or about forty per cent of the stock in the lumber company may still represent the substantial investment in that lumber company. Now, is that the case here?

Mr. Russell: No, it is not.

Commissioner Harlan: We have had one or two instances where the stock was held by members of the family, and in that way there was a difference in the investment. Are there any such conditions here?

Mr. Russell: No, there are not. The other sixty or more
5653 per cent is owned by, oh, seven or eight other owners.

Commissioner Harlan: And they are not related in any way to the stockholder that owns forty per cent?

Mr. Russell: Yes, Mr. Barton's sister owns some.

Commissioner Harlan: Who is the stockholder that owns all but two shares of the railroad?

Mr. Russell: Mr. Barton.

Commissioner Harlan: What members of his family own stock in the Manchester Lumber Company?

Mr. Russell: His sister owns some stock.

Commissioner Harlan: How much does she own?

Mr. Russell: Have you that paper, Mr. Childs? We had the ownership of all the shares, but it seems I have mislaid it.

Mr. Childs: I think I can remember it. She owns about forty shares, does she not?

Commissioner Harlan: Have you the list?

Mr. Childs: I have not the list.

Mr. Russell: He mislaid it.

Mr. Childs: And Mr. Barton owns about 400 shares, does he not?

Commissioner Harlan: Mr. Barton must own more than
5654 400 shares, does he not own approximately 600?

Mr. Russell: Forty per cent of $160,000.

Commissioner Harlan: That would be sixty thousand, would it not?

Mr. Childs: I know he owns four hundred and some odd shares, four hundred and thirty odd shares.

Commissioner Harlan: Well, his sister owns forty. Now, what other member of his family?

Mr. Childs: His son-in-law owns three hundred, does he not?

Mr. Russell: I think that is it.

Mr. Childs: And the rest of the stock is divided amongst various people not connected with the family in any way?

Mr. Russell: Yes, sir.

Mr. Childs: I think that is the situation.

Commissioner Harlan: Are those people connected with any other investments of Mr. Barton?

Mr. Russell: No, not that I know of.

Commissioner Harlan: Are they officers or employees of any other company in which he is any way interested?

Mr. Russell: No.

Commissioner Harlan: Are they bondholders?

5655 Mr. Russell: No.

Commissioner Harlan: Have they any other indirect interest in this railroad company?

Mr. Russell: None whatever.

Commissioner Harlan: What is the business of the Manchester Lumber Company?

Mr. Russell: They have a saw mill at Manchester, Alabama.

Commissioner Harlan: And what other business have they?

Mr. Russell: They have a store, general merchandise store.

Commissioner Harlan: At what point?

Mr. Russell: At Manchester.

Commissioner Harlan: What else?

Mr. Russell: They own timber.

Commissioner Harlan: How much timber?

Mr. Russell: About 140,000,000 feet.

Commissioner Harlan: How many acres?

Mr. Russell: 26,000 acres.

Commissioner Harlan: What other business have they? Give me all the information you have, Mr. Russell.

Mr. Russell: Well, that is all. They build logging roads and haul in their logs to manufacture lumber, and run the store: I think that is all.

5656 Commissioner Harlan: Have they any coal business?

Mr. Russell: No.

Commissioner Harlan: Any coal on the land they own?

Mr. Russell: Yes, there is coal, on all the land they own.

Commissioner Harlan: Who mines that?

Mr. Russell: The coal is not being mined now.

Commissioner Harlan: Who owns the coal?

Mr. Russell: The Tennessee Coal & Iron Company owns about thirty thousand acres in the neighborhood of Manchester. We have a map here which will show it.

Commissioner Harlan: Who owns the coal under your land?

Mr. Russell: The Jasper Land Company owns the most of it.

Commissioner Harlan: Who owns the Jasper Land Company now?

Mr. Russell: L. B. Musgrove owns most of it.

Commissioner Harlan: Is he a stockholder in the Manchester Lumber Company?

Mr. Russell: No, sir, he has no interest whatever.

Commissioner Harlan: Let me understand this. The Manchester Lumber Company owns about 26,000 acres of land, and the coal under it is owned by the Jasper Land & Coal Company?

Mr. Russell: The Jasper Land Company. They originally owned the entire tract of timber and the land in fee simple, and

5657 when they sold the timber and surface rights they segregated the mineral rights, and they still are in the Jasper Land Company.

Commissioner Harlan: And the coal is not being mined?

Mr. Russell: No, sir.

Commissioner Harlan: As I understand it, no stockholder of the Jasper Land Company has any relation directly or indirectly with this railroad company, or with the Manchester Lumber Company?

Mr. Russell: That is right; there is no connection in any way.

Mr. Childs: The same thing is true of the Tennessee Coal & Iron Company with those large tracts of coal.

Mr. Russell: Yes, sir.

Commissioner Harlan: Does the Tennessee Coal & Iron Company own coal under the land of the Manchester Lumber Company, or adjoining?

Mr. Russell: In a few instances under land which the Manchester Lumber Company owns, and largely in adjoining tracts.

Commissioner Harlan: What is the character of the lumber on this tract of land?

Mr. Russell: Long leaf yellow pine.

5658 Commissioner Harlan: What is the output of the mills?

Mr. Russell: About sixty thousand feet a day.

Commissioner Harlan: Are you an officer of the mill company?

Mr. Russell: Yes, sir.

Commissioner Harlan: What is your capacity?

Mr. Russell: Vice President and Manager.

Commissioner Harlan: Are the officers of the railroad company identical with the officers of the mill company?

Mr. Russell: No. Mr. Barton is president of the railroad company, but is not an officer of the lumber company. The president of the lumber company is Mr. L. M. Russell.

Commissioner Harlan: The same auditor?

Mr. Russell: Yes, sir.

Commissioner Harlan: And you keep separate books of account?

Mr. Russell: Yes, sir.

Commissioner Harlan: The railroad accounts are kept as we prescribe?

Mr. Russell: Yes, sir.

Commissioner Harlan: Have you appointed an agent in Washington?

Mr. Russell: Yes.

5659 Commissioner Harlan: Who is he?

Mr. Russell: I will have to furnish that later. I do not just recall his name.

Commissioner Harlan: You have no logging cars?

Mr. Russell: No, sir. I would like to say right there that the records given to the Commission a year or two ago, show that we owned some freight cars, but these were freight cars that the railroad company was using that belonged to the Frisco Railroad, and we expected to buy them from the Frisco, but when they finally got possession, the Manchester Lumber Company bought the cars instead of the railroad company.

Commissioner Harlan: So you have no cars?

Mr. Russell: The Alabama-Central has no freight cars, with one exception.

Commissioner Harlan: You have one locomotive?

Mr. Russell: One locomotive, and no combination car.

Commissioner Harlan: Do you run passenger trains?

Mr. Russell: Yes, sir.

Commissioner Harlan: On time card?

Mr. Russell: Yes, sir.

Commissioner Harlan: Do you sell tickets?

5660 Mr. Russell: We collect cash fares on the train, and have a cash register in the car.

Commissioner Harlan: Do you publish joint rates on passenger traffic?

Mr. Russell: No.

Commissioner Harlan: Just local?

Mr. Russell: Just local.

Commissioner Harlan: Do you have any express matter?

Mr. Russell: Yes, we have a ten year contract with the Southern Express Company which gives them exclusive rights over our railroad.

Commissioner Harlan: And you carry express, do you?

Mr. Russell: We carry express.

Commissioner Harlan: Have you reported your revenues to the Commission on your express matter?

Mr. Russell: No, there has been only one month that we received any revenue since the contract went into effect.

Commissioner Harlan: What was that?

Mr. Russell: $4.96 for the last month of the year.

Commissioner Harlan: And you carry mail, you said?

Mr. Russell: Yes, sir.

Commissioner Harlan: That amounted to what, last year?

5661 Mr. Russell: The mail revenue amounted to $294.97.

Commissioner Harlan: 96 cents, was it not?

Mr. Russell: I have 97 cents.

Commissioner Harlan: And your passenger revenue was $280.50?

Mr. Russell: Yes, sir, I think that was it.

Commissioner Harlan: Now your total revenue was what?

Mr. Russell: The total revenue was $13,014.25.

Commissioner Harlan: That was for what fiscal year?

Mr. Russell: 1909 to 1910.

Commissioner Harlan: And of that the controlling interest furnished how much, or rather the lumber company, put it in that way.

Mr. Russell: 85 per cent.

Commissioner Harlan: Have you that in the form of an exhibit?

Mr. Russell: I will put it in. I will have to mail it to you. It is not in shape.

Commissioner Harlan: Did those revenues accrue to you under published interstate rates?

Mr. Russell: About forty per cent of the freight accrued from interline settlements.

Commissioner Harlan: Just tell us on what basis.

5662 Mr. Russell: How I figure that?

Commissioner Harlan: No, not the percentage, but how your railroad is paid, upon what basis.

Mr. Russell: Well, now I have——

Commissioner Harlan: Is it in the form of a division of through rates?

Mr. Russell: About forty per cent of the amount is a division of the through rates, and the other is made up of local rates.

Commissioner Harlan: I am talking now especially about interstate shipments of lumber. Do you participate in through rates to interstate points?

Mr. Russell: Yes, sir.

Commissioner Harlan: You are a party to such joint through rate?

Mr. Russell: Yes, sir, on all railroads.

Commissioner Harlan: And you received divisions on those from all the railroads?

Mr. Russell: Yes, sir.

Commissioner Harlan: What are those divisions, what is the minimum amount, and what is the maximum?

Mr. Russell: I have it right here exactly; it is 48——

5663 Commissioner Harlan: I do not want the amount; we want the basis of your revenue on interstate shipments on lumber moving under joint through rate. Now in cents per hundred pounds, what is your division of the through rate?

Mr. Russell: Two cents per hundred pounds.

Commissioner Harlan: Is that the only division you get?

Mr. Russell: Yes, sir.

Commissioner Harlan: And what service do you perform?

Mr. Russell: We haul the empty cars from Jasper down to Manchester, and switch them into the side track or the shipping tracks of the lumber company, and haul the loaded cars back to the delivering track at Jasper.

Commissioner Harlan: Where is the mill, at Jasper?

Mr. Russell: At Manchester, seven miles north of Jasper.

Commissioner Harlan: Jasper is the logging point?

Mr. Russell: Jasper is the point where the Alabama-Central connects with the trunk lines. There are three trunk lines at Jasper, the Illinois Central, the Frisco and the Southern, and the Manchester Lumber Company's mill is at the northern terminus of the Alabama Central Railroad, about seven miles.

Commissioner Harlan: So that you haul the manufactured

5664 lumber?

Mr. Russell: We haul only the manufactured lumber.

Commissioner Harlan: And in doing that you use the ties of your connections?

Mr. Russell: Yes, sir.

Commissioner Harlan: On the other side of the mill is there any logging road?

Mr. Russell: Yes, sir, the Manchester Lumber Company have their logging road there.

Commissioner Harlan: And has its own equipment?

Mr. Russell: Has its own logging cars and locomotives.

Commissioner Harlan: And does all that service for itself?

Mr. Russell: Not entirely. They assemble their load to a central point about four miles north of the mill and the Alabama Central engine and crew go out to this point and bring in the train load of cars. The lumber company pay the railroad company fifty cents a thousand for this service, log scale.

Commissioner Harlan: That is to say the Alabama Central goes beyond the mill point on to the rails owned by the lumber company?

Mr. Russell: Yes, sir.

Commissioner Harlan: With its locomotive only?
5665 Mr. Russell: With its locomotive only.
Commissioner Harlan: It hauls the empty logging cars out into the woods with its own crew?
Mr. Russell: With its own crew.
Commissioner Harlan: The brakemen are paid by the Alabama Central Railroad Company?
Mr. Russell: Yes, sir.
Commissioner Harlan: And there the cars are loaded by whom?
Mr. Russell: At this central point four miles north of Manchester the Manchester Lumber Company's engine takes the empty log cars out to its spurs in the woods where they are loaded, and it takes them back three or four at a time, and assembles them at this central point where the Alabama Central engine takes the entire train and brings it into the mill.
Commissioner Harlan: And you throw them into the pond?
Mr. Russell: They leave them there at the pond, and the saw mill pond men empty the cars and take charge of them at that point.
Commissioner Harlan: And you get what for that service?
Mr. Russell: 50 cents a thousand log scale.
Commissioner Harlan: How many thousand log scale can
5666 you carry in a logging car?
Mr. Russell: About 3,000 feet.
Commissioner Harlan: Considering that as a source of revenue is it not a fact that more than 87 per cent of your total revenues came from the lumber company? For the fiscal year 1909 did you not get as much as 97½ per cent of your total revenues from the movement of lumber and lumber products?
Mr. Russell: No, I think we got less than ninety per cent.
Commissioner Harlan: What about the tonnage?
Mr. Russell: I have never figured what that tonnage amounts to on those logs. We do not look upon that as tonnage for the Alabama Central; it is merely lending its engine to the Manchester Lumber Company to perform this service.
Commissioner Harlan: When was the mill built at Manchester?
Mr. Russell: In 1906 and 1907.
Commissioner Harlan: And that was at the same time the railroad was being constructed?
Mr. Russell: Approximately the same, yes, sir.
Commissioner Harlan: Has the railroad company any bond issue outstanding?
Mr. Russell: No.
Commissioner Harlan: Has the lumber company any bond
5667 issue outstanding?
Mr. Russell: No, sir.
Commissioner Harlan: Is there any lien of any kind on the railroad's property?
Mr. Russell: No, sir.
Commissioner Harlan: And not on the lumber company's property?
Mr. Russell: No, sir.

Commissioner Harlan: Is your engine equipped with safety appliances required by law?

Mr. Russell: Yes, sir.

Commissioner Harlan: Standard couplers?

Mr. Russell: Yes, sir, automatic standard couplers and air brakes.

Commissioner Harlan: Mr. Russell, do you know any other Alabama-Central Railroad or Alabama-Central Railway in Alabama?

Mr. Russell: There is the Alabama-Central Railway down in the neighborhood of Montgomery or Autaugaville.

Commissioner Harlan: You are not interested in that?

Mr. Russell: No. There is a conflict of names that one of us is going to change.

5668 Commissioner Harlan: Has there been any offer to the public recently of any bonds on this lumber company's property or timber land or railroad or the mill property?

Mr. Russell: No, sir.

Commissioner Harlan: You file your financial reports with the Commission?

Mr. Russell: Yes, sir.

Commissioner Harlan: I recall some advertisement recently in one of the magazines of an issue of bonds that I had in some way connected in my mind with this investment. That is a mistake, is it?

Mr. Russell: That is a mistake.

Mr. Childs: I can testify to that, if it is necessary. I know that does not pertain to this company.

Commissioner Harlan: Do you know to what I refer, have you seen the advertisement?

Mr. Childs: No, but I know there has been no issue of bonds offered.

Commissioner Harlan: Mr. Childs, have you any suggestion or any information as to the financial relation between these two companies other than that testified to by this witness?

5669 Mr. Childs: As to the financial relation?

Commissioner Harlan: Yes, as to the identity of the investment, the practical or circumstantial identity of the investment directly or indirectly.

Mr. Childs: Yes, I think I have. The Railroad Company is practically owned by one stockholder with the exception of two qualifying directors, who own one share each. The stock in the Manchester Lumber Company, I think something like 36 or 37 per cent is owned by the man who owns the railroad stock. The controlling interest of the stock in the Manchester Lumber Company, which is paid up, is owned by seven or eight other parties, so that it is practically controlled by parties outside of the controlling interest in the railroad company. And I can further state that I know that they are handled absolutely as two independent propositions, the railroad company and the lumber company, and that the railroad company is a railroad company that was organized for the purpose of extensions as the charter will show, from both ends.

Commissioner Harlan: Well, the reason I have persisted in that

inquiry is simply this, here is a large investment in timber
5670 lands which cannot be operated economically except in connection with a tap line, and a tap line has been constructed and was constructed at the time the mill was constructed, about the time when this general investment was made by the lumber company and a railroad six miles long in itself could not be an investment that Mr. Barton would care to make for itself as a railroad operation——

Mr. Childs: There is no doubt about that, Your Honor, but the railroad is so constructed, as will be shown by the testimony of the man who constructed it, that it shows that it is a permanent proposition, and the way the operations of the railroad are carried on it will be demonstrated it is an independent proposition and a road that is built there for the purpose of being continued, and I know that that is the purpose, and I know that negotiations are being carried — now with that object in view.

Commissioner Harlan: I assume, of course, that you are familiar with the facts. Nevertheless, here is an investment of $100,000, approximately, made some years ago, say it is now in its fifth year, and the net revenue for the fiscal year 1909 was but $1192, according to your reports. Was there any net revenue last year?

Mr. Russell: Yes, sir.

Commissioner Harlan: What was it?

5671 Mr. Russell: The gross revenue——

Commissioner Harlan: I am talking about the net. What was the net last year?

Mr. Childs: Do you mean the profit?

Mr. Russell: The profit of the year's operation, does that mean?

Commissioner Harlan: Of the railroad company, yes.

Mr. Russell: About $1,000.

Commissioner Harlan: Well, they were less last year than the year before, and you have indicated no immediate prospect of extending this line so as to get enough traffic to make it a satisfactory investment for Mr. Barton.

Mr. Childs: As I understand, the business improved during the last year?

Mr. Russell: Yes, sir.

Mr. Childs: They have made more money during last year than before.

Commissioner Harlan: According to the statement of the witness the net revenue was less than it was the year before. The cost of operation was larger, apparently.

Mr. Childs: The net revenue; do you mean the profit?

Commissioner Harlan: The net revenue from operation.
5672 You have the gross revenue from operation, and on the other side of the account you have the operating expenses, and the difference between the two gives the net revenue from operation or net deficit.

Mr. Childs: There was a deficit as I understand, the year before, and a profit last year as the direct result of increased traffic.

Commissioner Harlan: The witness answered the net revenue last year was $1,000, and you suggest a deficit.

Mr. Childs: The year before. Is that correct, Mr. Russell?

Mr. Russell: I think there was a deficit the year before.

Commissioner Harlan: How could that be a satisfactory investment to Mr. Barton? From the extent of this investment I presume he is a business man accustomed to making investments, and the record is left in rather an unusual shape, if left at this point, because here is a business man who is interested in this railroad to the extent of $900,000, and he and his family are interested in the lumber company to the extent of $75,000 or $80,000, and on the railroad he gets a deficit one year, and a profit of $1,000 next year. Have you any explanation to offer?

5673 Mr. Russell: Yes, an adequate one.

Mr. Childs: It goes into a new country and a rich country, and a country underlaid with coal property. There are many railroads which do not earn money the first year——

Commissioner Harlan: It has been five years in operation.

Mr. Russell: Since the fall of 1907.

Commissioner Harlan: Well, it is in its fourth year.

Mr. Childs: Yes, it has been operated a little over three years. And there are many roads which have not made a profit the third or fourth year of their existence.

Commissioner Harlan: That is quite true, but they are roads where the investment was larger, and the road longer, and you have shown no such situation here.

Mr. Childs: If you will give us an opportunity, we will show you.

Commissioner Harlan: That is what we want.

Mr. Childs: Have you the charter of this road?

Mr. Russell: Yes.

Commissioner Harlan: We will not receive the charter in the record. We have not received any of the charters, but if you will state what points are mentioned in the charter, that will be sufficient.

5674 Mr. Childs: In a general way, what does the charter provide for as — the building of the Alabama Central?

Mr. Russell: I will read two extracts that will give that idea very briefly.

Article B of the charter: "The objects for which the corporation is formed is to servey, locate, construct, operate and maintain a railroad for transportation of freight and passengers, and for general railroad purposes to survey, locate, construct, operate and maintain branch lines of railway to coal mines, blast furnaces, quarries, saw mills and other manufacturing or industrial plants situated on its line of railway——"

Commissioner Harlan: This does not help the record at all.

Mr. Childs: It provides for the building of the railroad from a point north of Manchester to a point north of——

5675 Commissioner Harlan: Yes, what are those points?

Mr. Russell: From Decatur, Alabama, to Tuscaloosa.

Commissioner Harlan: What is the distance between those points?

Mr. Childs: Tuscaloosa is south of Manchester; I do not know just what the distance is; Decatur is here (indicating). There has been built from Cullman running in a southeasterly direction a line of road of which five miles has been constructed, and 17 miles has been graded, and as I understand it the steel has been purchased for this 17 miles of railroad, which will bring Manchester within some 25 or 30 miles of the point graded, and in the country between Manchester and this road is Julianna; the country is very heavy with coal, very fine coal, almost equal to the Pocahontas coal, a fine steam coal, and there are negotiations now with mining people to extend tracks from the Alabama Central to the mine for the purpose of getting an outlet herein supplying the traffic to the Alabama Central. We have letters here to substantiate that showing that there are negotiations of that kind.

Commissioner Harlan: Is Mr. Barton a railroad man?

Mr. Childs: No, I do not know how extensively he is.

5676 Commissioner Harlan: Is he interested in the road running south from Cullman?

Mr. Childs: He is not.

Commissioner Harlan: Is that all the statement that you care to make as to the genesis of this line, the Alabama-Central and its present outlook and purposes of its owners?

Mr. Childs: Further I will say that there has been a survey made through here from Manchester running northeast towards the Louisville & Nashivlle road, and an engineer has gone through this whole territory and made reports on the mineral condition, the character of the coal, and he is the engineer of the Alabama-Central Railroad. Further, there have been surveys made south of Jasper and towards Tuscaloosa.

Commissioner Harlan: In the interest of what company?

Mr. Childs: In the interest of the Alabama Central, made by the engineer employed, and paid for by the Alabama-Central. Is that correct?

Mr. Russell: Yes.

Mr. Childs: I state this for the purpose of showing that there is more to this Alabama-Central than merely a tap line, or as a road to this lumber company. They are now negotiating a spur to

5677 a coal property three miles away, and I have no doubt that will be put in shortly, if negotiations go through.

Mr. Russell: I think they will go through, and we will build that spur very soon.

Mr. Childs: I have here state maps showing the wealth of the country here, which we would like to file as an exhibit.

Mr. Russell: That is the state map of the Warrior Coal Basin.

Commissioner Harlan: That may be filed.

(The map so offered and identified was received in evidence, and thereupon marked "Alabama-Central Exhibit No. 1, Witness Russell. January 28th, 1911," and is attached hereto.)

Mr. Childs: South of Manchester the country is very rich with coal.

Commissioner Harlan: Have you a blue print of this?

Mr. Childs: We will file this original.

Commissioner Harlan: A blue print would be a little more satisfactory to the Commission. You may make one and file it. Mr. Swacker suggests the inquiry whether Mr. Barton is interested in any of these coal properties.

Mr. Childs: Mr. Barton owns no coal property in that
5678 district that I know of.

Commissioner Harlan: Is he interested in any company that owns coal properties in that district?

Mr. Childs: He owns no interest in any coal property.

Commissioner Harlan: Is he contemplating any such investment?

Mr. Childs: I think not, not that I know of.

Commissioner Harlan: We would not go into the details at all, but as bearing upon the general nature of this investment it is desirable to know whether Mr. Barton's resources and investments extend beyond the railroad company and lumber company.

Mr. Childs: Yes, sir.

Commissioner Harlan: Are we to understand that the investments in these two companies is a rather small proportion of his means?

Mr. Childs: I do not know; I could not say.

Commissioner Harlan: Who is Mr. Barton?

Mr. Childs: Mr. E. M. Barton, of Chicago. Further in connection with this coal I can state over in here along the Northern Alabama Railroad there are a dozen coal mines that are mining the Black Creek seam. Are those mining at a profit, Mr. Russell?

5679 Mr. Russell: Yes, sir, they have been running continuously.

Mr. Childs: I understand there is one mine that last year made a profit of $90,000 out of this same seam that comes up and appears in the coal region here.

Mr. Russell: That is the Empire coal property.

Commissioner Harlan: Is there any further information you wish to offer?

Mr. Childs: I would like to offer some.

Commissioner Harlan: Mr. Swacker suggests a question which is very pertinent and very relevant to this inquiry, and that is why when these investments were all made at one time the two properties were segregated.

Mr. Childs: The railroad property and the lumber company?

Commissioner Harlan: The building of the mill and the building of the railroad.

Mr. Childs: For the reason that it was contemplated, and as the charter shows, to build additional mileage, and to run the road further north and further south.

Commissioner Harlan: That does not get very far. We have had a great many companies here which were chartered to reach
5680 certain points; we had on one day half a dozen companies which were all chartered to reach Hot Springs, Arkansas, but they had been built fifteen years and never a mile built in the

direction of Hot Springs, and never any intention to build in that direction. Now when you exhibit a charter which gives you the right to build from Tuscaloosa up to Decatur, it does not signify very much.

Mr. Childs: I understand all that.

Commissioner Harlan: There is one railroad company that is called the Atlantic & Pacific, and which has been chartered and in operation for twenty-five or thirty years and has about two miles of road.

Mr. Russell: I would like to have the opportunity to give some information on how the railroad was built, and the expense that the railroad has gone to to condemn right of way through the center of Jasper to build a permanent road.

Commissioner Harlan: That is not the point. You have explained all that.

Mr. Swacker: We understand why there were two corporations. Why were the interests in the two corporations not made relatively the same at the time, what was the reason for that?

Mr. Childs: I do not know. The corporations from their
5681 inception have been in the same form in which they are now, the stock in each corporation is held at the present time as it was held four years ago.

Mr. Swacker: Can you explain what was the reason that that basis that was determined upon was followed, while they were not all relatively the same in each company?

Commissioner Harlan: This is the point, Mr. Childs, which Mr. Swacker has in mind. It has been said here repeatedly that you cannot run a mill economically without a railroad, and the same people that invested their money in that mill and in the purchase of that timber land must have contemplated that a railroad would be built to serve the mill and get its products out to the regular line. Now, Mr. Swacker's question is why, with that knowledge in mind on the part of every man who owns a share of stock in the mill, others should build the railroad and hold it for going on four years with no adequate return on the investment.

Mr. Childs: Well, the parties who own the railroad own—as I said, less than forty per cent of the stock of the Manchester Lumber Company, and I cannot state why stock in the railroad company was not sold to individuals, unless the man who built the road wished to own the stock himself.

5682 Commissioner Harlan: He is in the attitude of bearing for nearly four years a burden without any substantial return in the interest of a company of which he owns less than forty per cent.

Mr. Childs: Yes, that is true.

Commissioner Harlan: And of thus giving 60 per cent of the capital in that lumber company returns on the investment that could not otherwise be received at all. Now that situation stands on the record without explanation.

Mr. Childs: There is no evidence here as to any returns on the part of the lumber company.

Commissioner Harlan: Well, I suppose it was a going concern, and does utilize its timber and is selling it in the open market.

Mr. Childs: Yes, but you know the condition of the market.

Commissioner Harlan: Yes, it is very bad now.

Mr. Childs: And it has been for three years.

Mr. Russell: It has been for three years under the same conditions; the condition of the coal market is what prevented the coal mines from opening up, which expected to be opened up two or three years ago.

Commissioner Harlan: That is very true, but nevertheless the investment was made in the lumber company by sixty per
5683 cent of the stockholders with the expectation of making a profit, and they could not get a profit without a railroad, and others undertook to build that railroad, which in itself could not be run at a substantial profit as much as the mill and the mill's traffic before they can make any profit.

Mr. Childs: Necessarily the railroad was built originally to make an outlet for the mill, but that was not the only object in putting the railroad in there. It was a big enterprise.

Mr. Swacker: Would the lumber company's stockholders be content to allow the railroad company to make a profit with the lumber market in this condition, the railroad company making the profit off of this traffic supplied by the lumber company?

Mr. Childs: Decidedly so. There has never been a cent of divisions or money received for freight paid by the railroad company over to the lumber company. It is none of the lumber company's business what the railroad company receives.

Mr. Swacker: You misunderstand me. Suppose the railroad were a profitable institution, did you think 60 per cent of the
5684 stockholders of the lumber company would be content to sit and make no money in the lumber business, and allow the minority interests in the lumber business to make a profit out of the railroad, that is, when their investments were made coincident?

Mr. Childs: That is a pretty hard question to answer.

Commissioner Harlan: Have you any further information to give us?

Mr. Childs: In regard to this railroad I have, yes, considerable. Mr. Russell, I believe the map will show the trunk lines passing through Jasper.

Commissioner Harlan: Yes.

Mr. Childs: Did any of the railroads passing through Jasper, or any trunk line furnish any money, rails or other material for the building of the Alabama-Central?

Mr. Russell: They did not.

Commissioner Harlan: We would assume there was nothing of that kind.

Mr. Childs: With reference to Jasper, Mr. Russell, does the Alabama-Central run into Jasper, and if so, how does it connect with the other railroads in Jasper?

Mr. Russell: I have a map I would like to present to show
5685 that.

Mr. Childs: Will you produce that map? I think it is

pertinent to the situation. Now, referring to this map, will you point out the Illinois Central Railroad?

(Witness indicates.)

Commissioner Harlan: I believe we can work that out from the map without any special explanation of it.

Mr. Childs: The Alabama-Central Railroad runs right down directly into the center of the town, does it not?

Mr. Russell: Yes, this point here on 19th Street is less than two blocks from the center of the city, this square.

Mr. Childs: And have they connections here with three railroads?

Mr. Russell: Three railroads, yes, sir.

Mr. Childs: About what did it cost to condemn that land right through the center of the town?

Mr. Russell: It involved suits that amounted to about $15,000; they are not all settled yet.

Mr. Childs: There was a judgment entered for something like $12,000 on one piece, was there not?

Mr. Russell: No, one piece was $6,500, and others amount-
5686 ing to about $15,000 altogether.

Mr. Childs: Did the railroad have an offer of a right of way around outside the town to connect with the trunk lines?

Mr. Russell: We had an offer of a right of way to the east of the town coming in and paralleling the Frisco to this connection.

Mr. Childs: An offer free of charge?

Mr. Russell: Free of charge.

Mr. Childs: And in place of that they built through the center of the town at a large expense?

Mr. Russell: Yes, sir.

Mr. Childs: And the town where they went through the streets gave them a right to go through the streets by ordinance.

Mr. Russell: They gave them a franchise.

Mr. Childs: That is merely for the purpose of showing it is the idea to have the permanent road.

Commissioner Harlan: Can you furnish a blue print of that?

Mr. Russell: Yes.

Mr. Childs: Has this road exercised the right of eminent domain?

Mr. Russell: Yes, sir.

5687 Mr. Childs: When this railroad was first started, was there a proposition made by the Southern Railroad as to leasing rails to the Alabama Central on condition that they would furnish to the Southern road the traffic, and if so, what was that proposition made by the Southern road?

Commissioner Harlan: Well, it was not consummated.

Mr. Childs: It was not consummated.

Commissioner Harlan: Then we need not go into the details.

Mr. Childs: Simply for the purpose of showing that the Alabama-Central was building a permanent road and not taking a cheaper way to bring this lumber out. Do you know why the railroad built into Jasper instead of making that outside connection?

Mr. Russell: What outside connection?

Commissioner Harlan: We will assume from Mr. Childs' state-

ment that that indicates the permanent character of this investment. This road desires to be a permanent feature of that community.

Mr. Russell: Yes.

Mr. Childs: Was any of the money used in building the railroad advanced by the lumber company, or was it built absolutely independent of the lumber company?

5688 Mr. Russell: Absolutely independent.

Mr. Childs: It was built by the Alabama-Central Railroad?

Mr. Russell: Yes.

Mr. Childs: You understand that the lumber company as a corporation owns no interest in the railroad, and vice versa?

Commissioner Harlan: That is understood.

Mr. Childs: Does the railroad own its own right of way?

Mr. Russell: It does.

Mr. Childs: Has the road any stations?

5689 Mr. Russell: Yes, sir.

Mr. Childs: How many stops or platforms has it between Manchester and Jasper?

Mr. Russell: It has four.

Mr. Childs: Has the road an agent?

Mr. Russell: Yes, sir.

Mr. Childs: Paid exclusively by the road?

Mr. Russell: Yes.

Mr. Childs: Does he bill the freight from Manchester out?

Mr. Russell: Yes, sir.

Mr. Childs: Interstate shipments and state shipments?

Mr. Russell: Yes, sir.

Mr. Childs: Has the road put in side tracks for the use of independent shippers?

Mr. Russell: It has a side track——

Commissioner Harlan: I think that will all be covered by the exhibit of your traffic, if you have such an exhibit, showing your traffic; that is all we need. It makes no difference whether they have side tracks or not, if they have outside traffic, that is the point, and I understand the witness will furnish that exhibit and an analysis of all traffic for the last two years, showing what came from the lumber company and what from outside

5690 interests?

Mr. Russell: Yes.

Mr. Childs: State what other saw mills are on this line served by the railroad.

Commissioner Harlan: Will that appear in this exhibit?

Mr. Russell: No, not without being asked. The other shippers——

Commissioner Harlan: That is really all covered by the traffic exhibit. If you will show us what your outside traffic is and the amount of it.

Mr. Childs: Is it not material to show that there are several other saw mills furnishing lumber?

Commissioner Harlan: That is all covered by an exhibit of outside traffic.

Mr. Childs: You want in detail who the shippers are?

Commissioner Harlan: You can give it that way if you like.

Mr. Russell: Then that will appear in the exhibit.

Mr. Childs: In constructing this road, did they put in a steel bridge over a stream instead of a wooden bridge.

Mr. Russell: Yes, in crossing Black Water Creek we put in a deck truss steel bridge, 125 foot span.

Mr. Childs: Did you put in fills instead of wooden
5691 trestles?

Mr. Russell: Yes, we have some fills twenty feet high.

Mr. Childs: What is the weight of rail?

Mr. Russell: Sixty pound.

Mr. Childs: Standard gauge?

Mr. Russell: Standard gauge.

Mr. Childs: What is the maximum weight of the cars which pass over the Alabama Central line?

Mr. Russell: We carry the largest equipment that the trunk lines have, 50-ton cars.

Mr. Childs: Who owns the land along the right of way from Manchester to Jasper?

Mr. Russell: The Jasper Land Company own about two miles, and the rest of the land is owned by farmers and individuals.

Mr. Childs: As to the money paid to the section crew and employees, that may come in as an exhibit?

Commissioner Harlan: You mean the salaries?

Mr. Childs: Yes.

Commissioner Harlan: Yes; we have that information anyway.

Mr. Childs: What is the maximum grade of this road?

Mr. Russell: One and one-half per cent.

Mr. Childs: What is the maximum curvature?
5692 Mr. Russell: Eight degrees.

Mr. Childs: The Alabama Central Railroad hauls no logs, does it?

Commissioner Harlan: I think that has been covered.

Mr. Childs: The Manchester Lumber Company has no land between Manchester and Jasper.

Mr. Russell: No.

Mr. Childs: Are there any contracts or agreements of any kind between the Manchester Lumber Company and the railroad company that you know of?

Mr. Russell: No, there are none that I know of.

Mr. Childs: No contracts or agreements of any character?

Mr. Russell: No.

Mr. Childs: Where does the lumber company get the money which it has to build the spur tracks that go into the woods, that comes from the lumber company itself?

Mr. Russell: It comes from its earnings.

Commissioner Harlan: The railroad company does not furnish the steel?

Mr. Russell: No, it has no connection whatever.

Mr. Childs: And the steel of the Alabama Central Railroad was purchased from a concern in Chicago, was it not?

5693 Mr. Russell: Yes, sir.
Mr. Childs: New rails?
Mr. Russell: New rails.
Mr. Childs: New 60 pound rails?
Mr. Russell: Yes, sir.
Mr. Childs: Is there an agent at Manchester ready to receive shipments at all times for shippers?
Mr. Russell: Yes, sir.
Mr. Childs: And are all shippers treated exactly the same by the railroad as the Manchester Lumber Company?
Mr. Russell: All have exactly the same treatment.
Mr. Childs: About how many passengers does the railroad company carry?
Commissioner Harlan: That will be shown on the exhibit.
Mr. Childs: The lumber company employees do not ride free on the road, do they?
Mr. Russell: No, sir, the lumber company pays the railroad company for hauling its employees.
Commissioner Harlan: By the month or a fixed sum?
Mr. Russell: It pays for them at the end of the month. A record is kept each day, and then they settle at the end of the month.
5694 Commissioner Harlan: At a local rate?
Mr. Russell: At the local rates; yes, sir.
Mr. Childs: How many people are there right around Manchester that are tributary to the Alabama Central Railroad?
Mr. Russell: There are 500 people in Manchester and the territory within five or six miles of Manchester, north of Manchester, about 5,000 people.
Mr. Childs: The railroad company solicits business amongst those people?
Mr. Russell: Yes, sir.
Mr. Childs: Does the railroad company conform to all the rules and regulations of the Alabama Railroad Commission?
Mr. Russell: It does.
Mr. Childs: Has the Alabama Central filed a tariff with the Alabama Railroad Commission?
Mr. Russell: Yes, sir; we have an intrastate tariff.
Mr. Childs: Will you produce that tariff? I would like to file that with the Commission, if there is no objection.
Commissioner Harlan: That can be referred to instead of being filed.
Mr. Childs: It does file such a tariff?
Mr. Russell: Yes.
5695 Mr. Childs: Is this road recognized by the Railroad Commission as a common carrier in every respect?
Mr. Russell: It is.
Mr. Childs: Trains are operated on schedule time?
Mr. Russell: Yes, sir.
Mr. Childs: Does the Manchester Lumber Company, and do all other shippers pay demurrage on cars?
Mr. Russell: Yes, sir; they all pay demurrage.

Mr. Childs: And the railroad pays demurrage to the trunk lines on cars kept over 48 hours?

Mr. Russell: Yes, sir.

Commissioner Harlan: Are you sure of that?

Mr. Russell: Yes, sir, the railroad company gets 48 hours free time from the trunk lines, and it in turn charges the shippers after 48 hours free time.

Mr. Childs: Have you at times paid the railroad demurrage?

Mr. Russell: The railroad company every month has to pay demurrage to the trunk lines.

Mr. Childs: Where is the through billing made out?

Mr. Russell: The through billing is all done by the agent at Manchester.

Mr. Childs: Do you take less than carload traffic in lumber
5696 and other merchandise?

Mr. Russell: Yes, sir.

Mr. Childs: You take anything?

Mr. Russell: All classes and commodities.

Mr. Childs: Whenever called upon to do so, you set a car on a loading track for shippers independent of the Manchester Lumber Company?

Mr. Russell: Yes, sir, as soon as we can get a car from the trunk line we set it in.

Mr. Childs: The railroad operates its own trains with its own crews, exclusive of any employees of the lumber company?

Mr. Russell: Yes, sir.

Mr. Childs: Has the railroad ever paid any dividends?

Mr. Russell: No.

Mr. Childs: Have you had any trouble with any shippers other than the Manchester Lumber Company at any time with regard to rates?

Commissioner Harlan: I do not think we will go into those details.

Mr. Childs: There has been some question here which I have heard in the other hearings as to the attitude of other shippers towards the railroad. Do you wish to go into that question
5697 at all?

Commissioner Harlan: I think not. I think that is not pertinent.

Mr. Childs: I wish to show that all were satisfied with the situation.

Commissioner Harlan: I think that can be assumed, in the absence of special complaint.

Mr. Childs: Does this railroad perform all the functions of a common carrier?

Mr. Russell: All functions.

Mr. Childs: In every respect?

Mr. Russell: Yes, sir.

Mr. Childs: It issues its bills of lading in the ordinary prescribed form?

Commissioner Harlan: I think all those operating questions have been substantially gone over and can be left out.

Mr. Childs: Have there been some personal injury suits against the road?

Mr. Russell: Yes, sir. There has been one who got a judgment of $3,500.

Mr. Childs: And we settled one or two claims.

Mr. Russell: We settled some claims out of court.

5698 Mr. Childs: With regard to the divisions, how long have you been getting divisions from the two roads which grant divisions to the Alabama Central?

Mr. Russell: The Frisco commenced giving divisions in May, 1908 and the Illinois Central in April, 1909.

Mr. Childs: You received no divisions the first year that you operated?

Mr. Russell: No.

Mr. Childs: And the giving of divisions to the road had nothing to do with the building of the road; in other words, the division is not paid by the trunk lines for the purpose of paying back any loans made by the trunk lines or anything of that kind?

Mr. Russel: No.

Mr. Childs: I think that has been made clear your Honor.

Commissioner Harlan: I think so.

Mr. Childs: Are you now getting the same divisions you did at first?

Mr. Russell: Just the same.

Mr. Childs: What rate does the State of Alabama allow for intrastate shipments from Manchester to Jasper?

Mr. Russell: Fifty per cent more than first class roads on

5699 all classes and commodities.

Mr. Childs: Taking into consideration the comparison of the rate or of the division and the rate allowed by the state, how much does the state allow?

Commissioner Harlan: Do they have any joint through rates between points in the state?

Mr. Russell: No, it is always figured on a combination of locals. There are no joint rates.

Commissioner Harlan: And you are allowed fifty per cent more than the distance tariff?

Mr. Russell: The Alabama Commission divides the roads into four classes, first, second, third and fourth class roads, and we are in the fourth class, but in our tariff we are allowed to charge fifty per cent more than first class roads.

Commissioner Harlan: Do you have lumber shipped from the mill to points in the state?

Mr. Russell: Yes, sir, a great deal.

Commissioner Harlan: And are your earnings on such shipments larger than your division on interstate shipments?

Mr. Russell: Yes, sir; we are allowed two and one-half cents on intrastate shipments, and two cents on interstate.

Mr. Childs: I wish to bring that out to show that the di-

5700 vision is less than the intrastate rate. What percentage of the through rate does your division amount to, for example, on the Buffalo rate?

Commissioner Harlan: I do not think we need to go into that.

Mr. Childs: The Manchester Lumber Company does not share in the division either directly or indirectly in any respect, does it?

Mr. Russell: No.

Mr. Childs: Have you any contracts with any trunk lines giving to any one trunk line a certain percentage of your business?

Mr. Russell: No, there is no such contract.

Mr. Childs: You are unhampered by any such arrangements?

Mr. Russell: Yes.

Mr. Childs: You have division sheets here, have you? I suppose those are all on file with the Commission.

Commissioner Harlan: I doubt it, but there is no occasion for the division sheets. The witness has stated two cents and two and a half cents on state movements.

Mr. Russell: Yes. I would like to say that the Jasper rate applies from Manchester only to points of destination north of the
5701 Ohio River and out of that through rate we get two cents. To other points we add our local of two cents.

Mr. Childs: The Alabama Central files tariffs with the Interstate Commerce Commission now, does it not?

Mr. Russell: In that it concurs with the tariffs filed by the Frisco and Illinois Central.

Mr. Childs: It has concurred in those tariffs?

Mr. Russell: Yes, sir.

Mr. Childs: I think we have gone into the condition of the country north of Manchester pretty thoroughly.

Commissioner Harlan: I think that is all in.

Mr. Childs: May we file as exhibits the letters and documents showing negotiations for the opening up of coal mines?

Commissioner Harlan: I think your statement covers that. You have stated the matter rather fully.

Mr. Childs: Of course I have not been under oath.

Commissioner Harlan: Well, you are counsel in the case and we will accept it.

Mr. Childs: May we file with the Commission the engineer's report as to what is contained throughout this country, the natural resources?

Commissioner Harlan: I think that has been covered by
5702 your statement practically. The record indicates now that it is a lumber region and extensively underlaid with coal of a valuable character.

Mr. Childs: There is one question in regard to that, north of Manchester in Winston County, how much hard wood is there?

Mr. Russell: The Government reports show more than 700 million feet in Winston County, which commences six miles north of Manchester.

Mr. Childs: Who owns that lumber?

Mr. Russell: A great deal of it is Government land. I do not know of any one holder that has more than two or three thousand acres.

Mr. Childs: The Manchester Lumber Company owns none of that?

Mr. Russell: They own none of that.

Mr. Childs: Is any one who is interested in the Manchester Lumber Company in any way interested in that hard wood?

Mr. Russell: Not that I know of.

Mr. Childs: In regard to the agricultural conditions of the country around Manchester, is that developing?

Mr. Russell: Yes, sir; it is developing slowly.

Mr. Childs: They raise cotton and corn?

5703 Mr. Russell: There are about 4,000 bales of cotton brought into Jasper from the north every year, and it is hauled as far as 25 or 30 miles.

Mr. Childs: Propositions have been made by several concerns have there not—I will withdraw that question.

Commissioner Harlan: I think you have covered the matter rather fully, Mr. Childs, and if anything further occurs to you which you deem essential, if you will write to me there will be no trouble about getting it into the record.

Mr. Childs: Very well; if there are any facts which I wish to submit, I can?

Commissioner Harlan: Yes. But I just wished to express the view that I think you have covered the case very thoroughly as it stands.

(Witness excused.)

Whereupon, at 7:45 P. M., the hearing of the above matter was closed, and the Commission adjourned as per previous announcement to Saturday, January 28, 1911, at 9:00 A. M.

5704 ST. LOUIS, MO., *January* 28, 1911.

Met pursuant to adjournment at 9:00 A. M.

Present: Commissioner Harlan and parties as before.

Continuation of Hearing of Peach River Lines.

A. W. MILLER was recalled as a witness, and having been previously sworn, testified as follows:

Mr. Walter: What is that section of Texas in which your lines lie commonly known as?

Mr. Miller: It is what we call down there the Big Thicket.

Mr. Walter: What is the nature of the land after the timber has been removed?

Mr. Miller: It is all river bottom country; I don't suppose there is any more fertile land in the world than along the Trinity River.

Mr. Walter: Has the lumber company, say at Milvid, done anything toward trying out the land?

Mr. Miller: We have opened up some experimental farms there, raising corn and other food crops.

Mr. Walter: How is it as to fruit, say peaches?

Mr. Miller: It is not so much as to peaches down there,
5705 but there are some varieties grown.

Mr. Walter: More agricultural than for fruit raising?

Mr. Miller: Yes.

Mr. Walter: What other mill than your own is located at Beaumont?

Mr. Miller: There are several small mills there, and the Kirby Company have a large mill there.

Mr. Walter: Is that what is known as the Reliance Mill?

Mr. Miller: Yes, sir.

Mr. Walter: Can you say whether or not, under the Texas tariffs, they have made a rate in on logs which is refunded when a certain amount of timber goes out?

Mr. Miller: Yes, they get their logs hauled free.

Mr. Walter: That is, there is a refund provided there is a shipment out of the lumber?

Mr. Miller: On each car of lumber they get a corresponding refund on the inbound logs; that is, the number of logs equivalent to produce that car of lumber, generally fixed at about three cars of logs, so that the railroad's carriage of logs into that mill does not cost anything.

Mr. Cowan: You do not mean to create the impression that it is not accorded to anybody else?

5706 Mr. Miller: I did not hear you.

Mr. Cowan: Anybody else can get the same privilege?

Mr. Miller: Well——

Mr. Cowan: Oh, well, the Texas Commission never made a special rate for the Kirby Lumber Company.

Mr. Walter: We make no contention but what the rate is open to everybody.

Mr. Miller: I would not agree with you about that, because those milling in transit rates on logs have applied between a good many points in Texas at various times, but the lines that were carrying them have objected to putting them in, one road saying "While we put these rates in years ago, we will not any more," and the Commission would not insist upon it, if the railroad did not want to put them in.

Commissioner Harlan: Will the Louisiana Central report in the next room before Examiner Burchmore? And the Gulf & Sabine River. You may proceed, Judge Cowan.

Mr. Cowan: Do you have any milling in transit on the Kansas City Southern?

Mr. Miller: No, sir.

Mr. Cowan: Well, if you wanted to buy logs up on the Kansas City Southern and have them haul them down to you under
5707 the same circumstances, how would you arrange to have it done?

Mr. Miller: I do not know how the Kansas City Southern regards those arrangements. It is a matter I have never had up with them.

Mr. Cowan: You have never made application for them?

Mr. Miller: No, not to that line.

Mr. Cowan: You bring your logs in by trackage arrangement. that is, you use their track and haul the logs in?

Mr. Miller: Well, we use a small part of their track; yes.

Mr. Cowan: When you send your lumber out, what do you get out of it as a division of the rate?

Mr. Miller: I am not familiar with the divisions.

Commissioner Harlan: The next witness will testify as to that.

Mr. Marble: The first examination of this witness I did not hear.

Commissioner Harlan: Let me explain in a rough manner. The mill of this company is a short distance from the tracks of the Kansas City Southern, and is reached by the track of that line. What is that mill?

Mr. Miller: At Beaumont.

5708 Commissioner Harlan: They have a trackage arrangement over the Kansas City Southern from a point where their own line joins that line, and they operate their logging trains over their own line to the Kansas City Southern and then over the switching track of the Kansas City Southern to the bank of the river, where their logs are dumped into a boom and the logs on being taken out and sawed, are loaded onto the cars on the Kansas City Southern switching track, but the empty cars and loaded cars also are hauled back and forth to the interchange track by this line, under a trackage arrangement.

Mr. Walter: Three and a half miles to the interchange track.

Mr. Marble: Does that operation which has been described come within the milling in transit tariffs prescribed by the Texas State Commission?

Mr. Miller: No, sir.

Mr. Marble: It does not?

Mr. Miller: No, sir; the divisions that we earn on that traffic are paid to us for the movement of those loaded and empty cars. We have to haul the cars about seven miles, three and a half miles from the interchange track in the city yards down to the saw mill, and then after we load them, we have to get them back there.

5709 Mr. Marble: The milling in transit regulations of the Texas State Commission apply upon movements of logs by the line carrier, do they not, and the subsequent movement of lumber by that line carrier?

Mr. Miller: I think so.

Mr. Walter: We put in the record that tariff, and it had noted "Do not file with the Interstate Commerce Commission."

Mr. Marble: Do you know whether the carriers have voluntarily extended those regulations to interstate shipments as well?

Mr. Miller: I do not think it makes any difference where the destination is, whether state or interstate.

Mr. Marble: The tariffs will tell.

Mr. Walter: Yes.

Mr. Cowan: The Texas Railroad Commission, after personal examination of your line, declined to recognize it as a common carrier?

Mr. Miller: Which line do you mean?

Mr. Cowan: Well, any of them.

Mr. Miller: The Commission never examined our Galveston, Beaumont & Northeastern line, so far as I know. They did
5710 examine it a year or so ago the Riverside & Gulf line on the complaint of the Allen Company for some relief which the Riverside & Gulf was in nowise responsible for, and the matter of cars being scarce.

Mr. Cowan: Well, passing that subject, they do not recognize your line as a common carrier?

Mr. Miller: No.

Mr. Cowan: So there are no Texas rates applying from points on your line?

Mr. Miller: Not unless the consignments move interstate.

Mr. Cowan: I said Texas; I meant intrastate.

Mr. Miller: We earn some divisions on Texas business that move interstate.

Mr. Cowan: Other than interstate business—you get divisions interstate, but do not get it on state business.

Commissioner Harlan: The next witness will give all those details.

Mr. Coleman: That is true of the Peach River Road: it is not recognized, is it?

Mr. Miller: It is not recognized.

Mr. Coleman: And I understand you have made application in each case for a rate, and have been refused.

5711 Mr. Miller: I do not think any application we have ever made has been refused; nothing has ever been reached on it.

Mr. Walter: We introduced in the record last night a ruling of the Commission that they were without power to pass upon it; that the mere organization caused the laws automatically to apply to common carriers, and that letter is in the record.

Mr. Cowan: In New Orleans it was claimed that the Commission did have power to do it, and they went on to show how they did it.

Mr. Walter: The decision of the Commission is in the record.

(Witness excused.)

C. W. HOLE was called as a witness, and having been duly sworn testified as follows:

Commissioner Harlan: State your name.

Mr. Hole: C. W. Hole.

Commissioner Harlan: Where do you reside and what is your business?

Mr. Hole: I reside at Galveston, and am general manager of the Peach River Lines.

5712 Commissioner Harlan: They consist of what?

Mr. Hole: The Galveston, Beaumont & Northeastern; Riverside & Gulf, and Peach River & Gulf.

Commissioner Harlan: They belong to the Miller-Vidor Lumber Company?

Mr. Hole: Yes, sir.

Commissioner Harlan: We will take up the Galveston, Beaumont & Northeastern first. Mr. Miller described the general location of that line yesterday and its relation to the mill. I wish you would tell us something about the traffic of that company. Take up the traffic for the last fiscal year. What was the gross tonnage?

Mr. Hole: The tonnage for the fiscal year ending June 30, 1910——

Commissioner Harlan: Let me ask first, have you the figures in the form of an exhibit?

Mr. Hole: Yes, sir.

Commissioner Harlan: Have you copies?

Mr. Hole: Yes, sir, I gave that to you yesterday and they were handed back for some reason or other.

Commissioner Harlan: In the figures for that year you show revenue on lumber and logs of the Beaumont Saw Mill to the
5713 amount of $13,000 plus. Is that all the traffic that line has?

Mr. Hole: Practically so.

Commissioner Harlan: You have no mail, passenger or express earnings?

Mr. Hole: No, sir.

Commissioner Harlan: And I observe in the reports for that year that you show a deficit of $1,140.15.

Mr. Hole: Yes, sir.

Commissioner Harlan: Have you shown what your operating expenses are here?

Mr. Hole: I have not them on that exhibit, but it is on file. It was omitted when that was copied by the stenographer.

Commissioner Harlan: Can you tell me what is the general salary list of that company, just the aggregate salary list for the officers of that company?

Mr. Hole: About $1,800 a year.

Commissioner Harlan: And for the six months ending January 1st, 1911, you had no outside traffic to speak of.

Mr. Hole: Lumber and logs.

Commissioner Harlan: What was the source of that revenue? Of course I know it is on the lumber and logs, but who paid
5714 it to you?

Mr. Hole: The logs are handled: we have a joint track arrangement with the Kansas City Southern from Vidor to a point just below Beaumont, and the mill is located on the river bank. It is served by a joint track of the Kansas City Southern and the Galveston, Beaumont & Northeastern.

Commissioner Harlan: Why do you call it a joint track?

Mr. Hole: Because we pay for a joint trackage arrangement over the road.

Commissioner Harlan: But it was built by the Kansas City Southern?

Mr. Hole: It was originally built, as I understand it, by the owners of the mill, and then transferred to the Kansas City South-

ern and it becomes a joint property. The Galveston, Beaumont & Northeastern pay to the Kansas City Southern for the use of those tracks an interest which amounts to about in round numbers $105 a month.

Commissioner Harlan: Well, it is a minimum of $27.50 per train?

Mr. Hole: No, it is $105 a month, for the joint tracks, at the mill, connecting from down below, as shown on the map. The joint track arrangement is on a wheelage basis from Vidor
5715 to Beaumont, by which we pay the Kansas City Southern $27.50 per train of fifteen cars, and then a proportionate rate of $1.00, $1.50 and so on for the increased numbers.

Commissioner Harlan: Can you tell us what was the total amount paid by you under those trackage arrangements to the Kansas City Southern during the last fiscal year?

Mr. Hole: I have not got it here. I can furnish it to the Commission if they so desire.

Commissioner Harlan: If you will, do that.

Mr. Hole: Yes.

Mr. Walter: We will furnish it.

Commissioner Harlan: Proceed and answer my inquiry as to what was the source of this revenue.

Mr. Hole: The Kansas City Southern allow us for performing the service of hauling the empty cars in and the lumber out a division of from one-half cent to three cents per 100 pounds.

Commissioner Harlan: Is that your highest division on any traffic?

Mr. Hole: With the exception of one point, which is Fort Smith, Arkansas, and possibly we have maybe one or two cars a year which we handle to that point, which is four cents.

5716 Commissioner Harlan: What is the highest division you have ever received from the Kansas City Southern on any traffic?

Mr. Hole: Four cents.

Commissioner Harlan: And the service performed by your line, as I understand you, is to haul empty cars from Beaumont under this trackage arrangement to the mill, and the loaded cars from the mill back to Beaumont, to the interchange track?

Mr. Hole: Yes, sir, we haul the loaded car of lumber; we handle our own logs into the mill over our line, and the joint track of the Kansas City Southern into the mill, and then from the Beaumont yards we handle the empty cars into the mill over the joint track and the lumber back.

Commissioner Harlan: So the division has no relation at all to the movement of the logs over your own line and the line of the Kansas City Southern to the mill?

Mr. Hole: None whatever.

Commissioner Harlan: Now, I understand that you receive some logs via the river.

Mr. Hole: I presume they do. I have nothing whatever to do with the mill. I have no doubt they do.

5717 Commissioner Harlan: Have you ever received any shipments of lumber by way of the river to carry on to Beaumont or elsewhere?

Mr. Hole: No.

Commissioner Harlan: Any traffic from outside interests in that way?

Mr. Hole: There is none in there which would come in that way.

Commissioner Harlan: You never move any cotton or anything of that kind in that way for the farmers?

Mr. Hole: No.

Commissioner Harlan: Have you ever been a railroad man at any time?

Mr. Hole: All my life.

Commissioner Harlan: Are you familiar with cases where railroads without expense switch in empty cars and take out loaded cars over switch tracks leading to industries?

Mr. Hole: I do not recall any right now, only the log haul you were just discussing into Beaumont.

Commissioner Harlan: Is it not quite a common practice with railroads to spot cars on spur tracks without charge?

5718 Mr. Hole: Yes.

Commissioner Harlan: To industries, on their lines?

Mr. Hole: Certainly.

Commissioner Harlan: And to take the loaded car away without charge?

Mr. Hole: When with their own service.

Commissioner Harlan: With their own service?

Mr. Hole: Yes.

Commissioner Harlan: And it is also not uncommon for railroads to make a charge for such a service, is it not?

Mr. Hole: It all depends on conditions. There are a great many places where the service is a little bit heavy; you might say, or the distance is over the average length. It all depends on the conditions under which the track was put in. There are so many different contracts and various contracts. It would be hard to answer explicitly without picking out a separate contract.

Commissioner Harlan: If this service of putting the empty car into the mill and taking the loaded away were performed by the Kansas City Southern, you would call it a switching service?

5719 Mr. Hole: No—in that case possibly it would be a switching service, but in the case where we handle the logs over our own line into there and the lumber out, they have no service to perform.

Commissioner Harlan: I understand that, but if they did perform it, you would call it an ordinary switching service?

Mr. Hole: I don't know what they would term it; whether they would charge us for it or not.

Commissioner Harlan: If the service was performed by the Kansas City Southern under the Texas tariff, what would it be? Would it not be called a switching service?

Mr. Hole: Not within that limit. My recollection is it would not come within the switching limit there. The distance is prescribed.

Commissioner Harlan: The distance——

Mr. Hole: I think it is three miles; I think that is the distance of the switching limit. That is my recollection of it.

Mr. Marble: This tonnage and revenue statement which you have shown shows the total income of the Galveston, Beaumont & Northeastern?

Mr. Hole: Yes, sir.

5720 Mr. Marble: Was that received in allowances entirely?

Mr. Hole: Allowances from the Kansas City Southern?

Mr. Maeble: Yes.

Mr. Hole: No.

Mr. Marble: What other sources of income have you?

Mr. Hole: In handling the railroads which are handled separate entirely from the mill operations, I have nothing to do with the mill interest, we charge the Beaumont Saw Mill Company, we make a charge against them for hauling the logs in there, and the Galveston, Beaumont & Northeastern pays the trackage to the Kansas City Southern and we charge the saw mill company for the service performed.

Mr. Marble: And the Kansas City Southern pay the amount as compensation for the carriage of the logs, to the lumber company?

Mr. Hole: That compensation is made up of the amount of money charged the saw mill company and the division paid by the Kansas City Southern as total earnings, the interstate earnings is in that, as well as the earnings of the local work.

Mr. Marble: When you get divisions from the Kansas City Southern, how do you distribute that as between the lumber

5721 from Beaumont and logs to Beaumont?

Mr. Hole: What was the query?

Mr. Marble: If I understand your answer correctly, when you receive $100 allowance from the Kansas City Southern you distribute on your books a part of that as against the carriage of logs to the mill, and another part as against the carriage of lumber from the mill?

Mr. Hole: No.

Commissioner Harlan: That is not an allowance is it?

Mr. Hole: No; I handle that just the same as any other railroad company would handle a bale of cotton or anything else.

Commissioner Harlan: It is a payment made by your company to the Kansas City Southern for the use of this switch track?

Mr. Hole: For the use of the track by the Galveston, Beaumont & Northeastern.

Mr. Marble: I am trying to get at the origin of these two separate portions of income. Who pays for the carriage of the logs?

Mr. Hole: The Beaumont Saw Mill Company, which is owned by the Miller-Vidor Company, pay the railroad company for

5722 the carriage of the logs.

Mr. Marble: Take the first statement, July 1st, 1909 to

July 1st, 1910, you received from the lumber company $9,312 entirely, as shown there.

Mr. Hole: Yes, sir.

Mr. Marble: Who paid the $3,921; was it on lumber from the Beaumont Saw Mill?

Mr. Hole: That was the earnings on lumber moved from the Beaumont Saw Mill.

Mr. Marble: Who pays that?

Mr. Hole: The Kansas City Southern Railroad pay that to us as our division for handling that property.

Mr. Marble: And that is all the Kansas City Southern paid you?

Mr. Hole: Yes, sir.

Mr. Marble: They did not pay any portion of this other amount?

Mr. Hole: No; they pay no proportion whatever on the logs.

Mr. Walter: Now, he has similar data for each of the other lines.

Mr. Coleman: I would like to ask what the net result of the operation of your railroad is. Does it show a profit or
5723 loss?

Mr. Marble: A deficit of $1,140 for the year.

Mr. Coleman: Now, has it always shown a deficit?

Commissioner Harlan: It showed a deficit the year before of $359.59.

Mr. Coleman: I would like your opinion as to whether under present circumstances it could ever show anything but a deficit.

Mr. Hole: Why, yes, after these matters are settled with the Interstate Commerce Commission as to what the status is going to be in regard to these tap lines, I think I can make that line clear up its deficit.

Mr. Coleman: Did it clear up the deficit when you were getting the division before the agitation began?

Mr. Hole: We did not begin to operate it until two years ago.

Mr. Coleman: Well, during those two years.

Mr. Walter: It shows a deficit.

Mr. Swacker: You answered that the $3,921.43 was all divisions received from the Kansas City Southern?

Mr. Hole: Yes, sir.

Mr. Swacker: Are there not some shipments that moved
5724 out on which your revenue is not absorbed?

Mr. Hole: No, sir.

Mr. Swacker: Does all your traffic move over the Kansas City Southern?

Mr. Hole: Every bit of it.

Mr. Swacker: Do you get allowances on all of it?

Mr. Hole: Yes, sir.

Mr. Swacker: Irrespective of destinations?

Mr. Hole: Yes, sir.

Mr. Marble: How about shipments to Texas points?

Mr. Hole: We get a switching charge.

Mr. Marble: What is the amount?

Mr. Hole: $1.50 a car.

Mr. Marble: Who pays that?

Mr. Hole: The Kansas City Southern.

Mr. Marble: They absorb it?

Mr. Hole: Yes, sir.

Commissioner Harlan: Does that take in the empty and the loaded car out?

Mr. Hole: Yes, sir; they pay us $1.50 a car for switching, for the service performed on handling the lumber out to Texas points.

5725 Mr. Swacker: Do they place the empties in that case?

Mr. Hole: No; we do the entire service.

Mr. Marble: The service is the same on state and interstate shipments, so far as your road is concerned?

Mr. Hole: Yes, sir.

Mr. Marble: Why do you get so much less on state than on interstate shipments?

Mr. Hole: Our road is not recognized by the Texas Commission, but in order to take the engines out of the terminal yards, they allow us $1.50.

Commissioner Harlan: Have you appointed an agent in Washington?

Mr. Hole: Yes.

Commissioner Harlan: Who is he?

Mr. Hole: His name is Tennielle, I believe.

Commissioner Harlan: Do you keep your books as required by the Interstate Commerce Commission?

Mr. Hole: Yes, sir.

Commissioner Harlan: When did you start to do that?

Mr. Hole: I made a report of 1909 and 1910.

Commissioner Harlan: You made annual reports to the Commission?

5726 Mr. Hole: Yes, sir.

Commissioner Harlan: About when did you start to keep your books in accordance with our prescribed system of accounts?

Mr. Hole: Two years ago.

Commissioner Harlan: The report that we have here indicates that your statement was, when inquiry was made, that you had not opened general books of account, but were waiting until the disposition of this tap line question.

Mr. Hole: The opening of our general books in all probability—yes, that is the case, but we have a full record of all of it separate. But I explained to the Examiner when he was there, that we had not opened a general set of books in the general way, until the matter was settled.

Commissioner Harlan: In other words, you are keeping the accounts in the office and on the books of the lumber company, are you not? You are keeping them separately, but they are on the books of the lumber company?

Mr. Hole: They are on separate books of their own. They are kept in the office.

Commissioner Harlan: Do you have safety appliances on your equipment?

Mr. Hole: The Galveston, Beaumont & Northeastern is
5727 fully equipped. We have——

Commissioner Harlan: Is the engine equipped with air brakes?

Mr. Hole: Air brakes and automatic coupler and standard cars.

Commissioner Harlan: Do you obey the Hours of Service Law?

Mr. Hole: Yes.

Commissioner Harlan: What do you understand in substance that law to be?

Mr. Hole: The hours of service law?

Commissioner Harlan: Yes.

Mr. Hole: A sixteen hour regulation.

Commissioner Harlan: Are the salaries of the officers and employees of the company carried on the books of the lumber company?

Mr. Hole: The salaries of the officers?

Commissioner Harlan: Yes.

Mr. Hole: My salary is the only one there is connected with the railroad company. I am the only one.

Commissioner Harlan: What about the employees?

Mr. Hole: They are paid by the mill at Beaumont and charged to the railroad company.

5728 Commissioner Harlan: The railroad company itself does not keep any bank account, does it?

Mr. Hole: I am sure I don't know. Mr. Miller is the treasurer. I do not know how he keeps it.

Commissioner Harlan: But the pay checks are all the checks of the lumber company?

Mr. Hole: I presume so. I do not know.

Commissioner Harlan: Well, that is so with your salary, is it not?

Mr. Hole: Yes, sir.

Commissioner Harlan: Mr. Miller, do you keep a bank account for the railroad company?

Mr. Miller: At present I do not. I clear my railroad matters through the treasury of the lumber company. I did at one time have a bank account as treasurer of the Peach River Lines, but I would be away from home and it would be overdrawn and it kept me in so much hot water that I finally got the treasurer to keep it clear for me.

Commissioner Harlan: The account was a little too active for a railroad company?

Mr. Miller: Well, I was outside too much for the bank.

Mr. Coleman: In answer to a question by Commissioner
5729 Harlan you stated that you did not think that the distance from the mill to the junction point was within the switching limit.

Mr. Hole: Yes, sir.

Mr. Coleman: You also stated to Examiner Marble that on Texas business you got the Texas switching tariff of $1.50 a car.

Mr. Hole: Yes, sir.

Mr. Coleman: Do you wish to change your opinion as to whether your mill is in the switching limit?

Mr. Hole: No reason to change it.

Commissioner Harlan: Now, taking up the Riverside & Gulf, on a document here, which I find it marked Exhibit No. 2 are shown the earnings of the Riverside & Gulf Railway for the fiscal year ending July 1st, 1910 and gross earnings are shown at $40,000 plus. Have you a copy of that exhibit?

Mr. Hole: Yes, sir.

Commissioner Harlan: You note 964 tons of agricultural products. Let me ask whether the lumber company there has a store.

Mr. Hole: At Milvid?

Commissioner Harlan: Yes.

5730 Mr. Hole: Yes, sir.

Commissioner Harlan: Were any of those products shipped for that store in or out?

Mr. Hole: They were consigned to the Miller-Vidor Saw Mill Company.

Commissioner Harlan: Is not that true of all this tonnage; was it not company tonnage?

Mr. Hole: Practically so, except the Allen Lumber Company, which was the hard wood proposition there.

Commissioner Harlan: We will take up that company. Where do they get their logs?

Mr. Hole: They have an arrangement whereby they are taking the hard wood out of that section, and they change their spurs from time to time to wherever they may be cutting and haul their logs in over the Riverside & Gulf Railroad Company to their mill, which is about a mile and a half from Milvid Junction.

Commissioner Harlan: Does their logging line join your line at the mill?

Mr. Hole: No.

Commissioner Harlan: It is some distance south of it?

5731 Mr. Hole: They pick up their spurs and as indicated, they change those spurs to our main line in cutting out the timber.

Commissioner Harlan: They use their own equipment?

Mr. Hole: They use their own equipment over our line.

Commissioner Harlan: And you make them a charge of ninety cents a car for hauling it in?

Mr. Hole: We make them a charge of ninety cents a car for hauling it in.

Commissioner Harlan: Where do their logs come from?

Mr. Hole: It comes from various points along the main line, they are cutting out, and when they get through cutting out one tract they pick up and lay into another one.

Commissioner Harlan: Are they cutting on the lands of the Miller-Vidor Lumber Company?

Mr. Hole: I am sure I don't know whose lands they are cutting on. I am not posted as to that.

Commissioner Harlan: I think you said they were, Mr. Miller.

Mr. Miller: No; if it was brought up, I said they were not.

Commissioner Harlan: You have no interest, then, in that?

Mr. Miller: We have no relation or sale between us, or anything of the kind.

5732 Commissioner Harlan: Who carries the hardwood lumber out from their mill?

Mr. Hole: We do.

Commissioner Harlan: And you have a haul of about a mile and a half to the Santa Fe?

Mr. Hole: Yes, sir.

Commissioner Harlan: And what revenue do you receive for that service?

Mr. Hole: Two cents per hundred pounds.

Commissioner Harlan: That is paid by whom?

Mr. Hole: T. B. Allen & Company.

Commissioner Harlan: What rate do they get on the lumber; do they get the junction point rate?

Mr. Hole: I can explain that to you in this way:

Commissioner Harlan: Very well.

Mr. Hole: When we first put in the line, we were getting a division practically of two cents to all interstate points. Not being recognized by the Texas Commission, while this litigation has been going on, and when that division was cancelled, I continued to charge as a matter of record the two cents per hundred pounds. You see, the Santa Fe cut off our division in August, August 25, 1908,

5733 which we were getting, practically two cents per hundred pounds on the interstate business out of there, and as a matter of record, I have kept it up in the same way.

Commissioner Harlan: Then that item of $5,268 is not a cash item, or is it a cash item?

Mr. Hole: The item of lumber is $2,485 for the Allen Lumber Company.

Commissioner Harlan: The item to Allen logs of $5,268 is a cash item; that is, the payment was made by the Allen Lumber Company?

Mr. Hole: It is charged against them; I do not know whether it was ever been collected or not.

Commissioner Harlan: Tell us about that. Why has it not been collected?

Mr. Hole: Well, there is an agreement of some kind; I do not know exactly what it is, in regard to handling the logs in there; I mean in regard to the payment. The agreement was made with the Miller-Vidor Lumber Company in some way whereby they put in a contract with Allen & Company to handle the logs in there, and in keeping the railroad records I assessed it at that charge.

Commissioner Harlan: But have not collected the amount?

5734 Mr. Hole: But have not collected the amount; that is, to my knowledge.

Commissioner Harlan: Not having been recognized by the State Commission, you publish no rates with the State Commission?

Mr. Hole: No.

Commissioner Harlan: So you can charge whatever you like?

Mr. Hole: Well, I charge within the limit as prescribed by the Commission.

Commissioner Harlan: That is to say, the charge you enter up against the company, but do not collect or have not collected, is based on the Texas Commission rates?

Mr. Hole: Yes, sir.

Commissioner Harlan: Now, I understand you have not collected the $2,485 shown on this account as your charge for hauling the Allen Lumber Company's hard wood lumber.

Mr. Hole: To the junction?

Commissioner Harlan: You have not collected that.

Mr. Hole: No.

Commissioner Harlan: Did you at any time collect such charge from the Allen Lumber Company?

Mr. Hole: No; it was paid to us in our division by the
5735 Santa Fe.

Commissioner Harlan: What sort of a rate was that when the Santa Fe allowed you two cents per hundred pounds?

Mr. Hole: It was the published through rate to interstate points.

Commissioner Harlan: It was a rate on manufactured lumber?

Mr. Hole: It was a rate on manufactured lumber entirely.

Commissioner Harlan: It was the junction rate, and also applied from points on your line?

Mr. Hole: It was the blanket rate.

Commissioner Harlan: Did that cover the service of hauling the logs to the mill?

Mr. Hole: No, sir, it did not enter into the service at all; that is, there was nothing published in regard to the logs.

Commissioner Harlan: Mr. Coleman, if you have any understanding about that different from what the witness has said, you may put it in at this time.

Mr. Coleman: No, I have not, but I would like to inquire on what basis the $2,485 accrued. Was it on so much a hundred pounds?

Mr. Hole: Yes, sir.

5736 Mr. Coleman: How much?

Mr. Hole: Two cents per hundred pounds.

Mr. Coleman: The same as the division?

Mr. Hole: Yes, sir.

Mr. Walter: I was going to ask Mr. Coleman if he was not willing to say this morning that there were divisions paid to the Riverside & Gulf.

Mr. Coleman: I can only say that our auditors were instructed to search the records and report everything that was paid. In view of the statement made, I am going to have a re-examination made. I think it is an inconsequential matter, but just so that the Commission may understand it——

Commissioner Harlan: If you will advise the Commission and refer to the testimony of Mr. Hole, so we will know where to look at it.

Mr. Coleman: I know it does not come in this connection at all.

Mr. Miller: We can furnish the evidence of half a dozen parties who handled the vouchers.

Commissioner Harlan: That will not be necessary, in view of the testimony of this witness.

5737 Mr. Coleman: It occurred to me that the auditor might have credited the payment in connection with some other road of yours. It will be looked up. This I know, there was a division in effect on the tariff at the time, but we were of opinion that nothing had ever been paid under it, because the mill——

Commissioner Harlan: Mr. Hole, that sum of $2,485 you have charged against the Allen Lumber Company on their interstate shipments?

Mr. Hole: Yes, sir.

Commissioner Harlan: What charge do you make against them when the lumber is destined to Texas points?

Mr. Hole: I said, sir, it is state and interstate.

Commissioner Harlan: State and interstate?

Mr. Hole: Yes, sir, the same division; that is, the same rate, two cents per hundred pounds on state and interstate.

Commissioner Harlan: Where a shipment is a state shipment your charge on the logs is just the same; that is a trackage arrangement?

Mr. Hole: Yes, sir.

Commissioner Harlan: Now, you also show on the same exhibit No. 2, your gross revenues for a period of six months ending January 1st, 1911, itemized as the previous statement is

5738 itemized. I assume that that is all company material, except hard wood of the Allen Lumber Company.

Mr. Hole: The same as it is before.

Commissioner Harlan: Who is the agent in Washington of this company?

Mr. Hole: The same agent.

Mr. Walter: It is a lady, Mrs. Tennielle, who is the American Lumberman representative at Washington.

Commissioner Harlan: You have opened a set of books for this company?

Mr. Hole: Yes, sir.

Commissioner Harlan: When did you do that?

Mr. Hole: About a year ago, in the same manner we did with the others.

Commissioner Harlan: It has no bank account?

Mr. Hole: No, I think Mr. Miller attends to it.

Commissioner Harlan: The accounts of the railroad company are cleared through the banks of the lumber company?

Mr. Hole: As far as I know.

Commissioner Harlan: The checks of the lumber company are used in payment of its labor bills?

Mr. Hole: The same applies to all three of the roads.

5739 Commissioner Harlan: Did you make a profit on the operations of that road during the last fiscal year?

Mr. Hole: Taking the earnings as I explained to you, and the expenses, it shows a net earning of $3,292.18.

Commissioner Harlan: And for the last six months there is also a slight net earning?

Mr. Hole: Yes, sir.

Commissioner Harlan: But of course that it not a cash net earning in view of the fact that you have not made your collections from the Allen Lumber Company?

Mr. Hole: No.

Mr. Miller: I might explain that the ninety cents per car for movement, or the trackage for logs is paid promptly each month.

Commissioner Harlan: Suppose the Allen Lumber Company does not make these payments to you, what is going to become of that charge you have against them?

Mr. Hole: That is a matter to be adjusted by Mr. Miller as treasurer. I do not know what disposition he would make of it.

Commissioner Harlan: Mr. Miller, are you collecting that amount under any rate?

5740 Mr. Miller: I am receiving ninety cents per car.

Commissioner Harlan: You are collecting the ninety cents per car?

Mr. Miller: Yes, sir.

Commissioner Harlan: Then this item of $2,485 is a cash item?

Mr. Miller: I have charged it to them. Whatever the ninety cents a car amounts to has been paid.

Commissioner Harlan: I understood this witness to say, and I understood you to say a moment ago, that it had not been collected. There is quite a difference between charging it up against the Allen Lumber Company and collecting the cash. Now, what is the fact?

Mr. Miller: The facts are that all this amount is charged up, and as much as was represented by the ninety cents a car has been collected.

Commissioner Harlan: Why do you make a distinction in your relations to that company between the collections on the logging service and the collections on this switching service to the junction point?

Mr. Miller: Well, sir, it grows out of a condition that we could not foresee. When we located that saw mill there, we could

5741 not locate it on the main line of the Santa Fe Railroad, because it is in the bottom land, and no place to locate it. We had to have a pond and a reasonably healthy condition in order to maintain a pond there——

Commissioner Harlan: Assuming those conditions——

Mr. Miller: And we located this mill over in the woods, and built this track to connect it up with the Santa Fe, and then extended it on south. When Allen & Company sought a location there, they came to me and talked about it, and I had at that time an understanding with the Santa Fe that they would allow divisions on that business, and I thought the matter was definitely and finally fixed, and did not know that any question would ever be raised, and with

that idea in my head, I assured Mr. Allen if he put his plant on my railroad, that I was interested in, we would give him the same blanket rates on that road that he would get from any other road. I supposed that condition was permanent and had no idea the situation would ever be raised or changed. Mr. Allen then put a plant there and expended, I suppose, $175,000 or such a matter, and of course I have got to make good on that promise; I cannot back out, so far as this outbound lumber is concerned; we have to pro-
5742 tect the blanket rate out, and that has got to be paid by somebody.

Commissioner Harlan: When you say "we" you mean the railroad company?

Mr. Miller: Yes, sir.

Commissioner Harlan: On interstate shipments—you have interstate shipments, I mean.

Mr. Miller: On any shipments. The lumber from his mill, of course the payment for the use of our tracks for moving his logs is a matter of contract.

Commissioner Harlan: I have so understood, that that was your view.

Mr. Miller: That is entirely outside from my agreement to maintain the blanket rate from his station on our railroad.

Commissioner Harlan: On what published rate do you move this hard wood lumber to the junction point?

Mr. Miller: We move it on those local rates from between Allendale—we apply from all stations on that line up to the junction that rate.

Mr. Marble: There is a line of questions which relate not only to this road, but the one concerning which testimony was given before. Taking the Galveston, Beaumont & Northeastern, your rate on logs appears to be 20 cents per ton?

5743 Mr. Hole: From where?

Mr. Marble: Your rate on logs to the Beaumont saw mill.

Mr. Hole: $3.00 per car.

Mr. Marble: It is not based on a ton rate, then?

Mr. Hole: No.

Mr. Marble: Do you weigh the cars?

Mr. Hole: We estimate them.

Mr. Marble: Unless my figures are wrong, it figures out in each of these three exactly twenty cents a ton.

Mr. Hole: Estimated 30,000 pounds.

Mr. Marble: You estimate each car at 30,000 pounds?

Mr. Hole: Yes, sir.

Mr. Marble: And that makes your charge that amount?

Mr. Hole: That makes the tonnage basis.

Commissioner Harlan: You are now speaking of the revenue on the logs?

Mr. Hole: On the logs?

Commissioner Harlan: Hauled to the saw mill?

Mr. Hole: To the Beaumont saw mill.

Commissioner Harlan: What kind of revenue do you call that? Is that revenue that you get as a common carrier?

Mr. Hole: Yes, sir; I figure it so.

5744 Commissioner Harlan: Under the authority of what published rate?

Mr. Hole: It is a state rate.

Commissioner Harlan: But you have not been recognized as a common carrier by the state, have you?

Mr. Hole: No, but we hope to be, and that was kept in order to keep a full record of the railroad transactions which could be shown at any time.

Commissioner Harlan: That is some $19,000, is it not?

Mr. Hole: $9,000.

Mr. Marble: $9,000 for the first period, and for the next six months, $4,900.

Commissioner Harlan: Has that actually been collected, or have you just kept a record of it?

Mr. Hole: Kept a record of it, and charged it against the lumber company. It was done to keep a record of the transactions of the railroad in its entirety.

Commissioner Harlan: Have you made any actual cash collections on any of the agricultural or merchandise movements shown on that account?

Mr. Hole: No.

Commissioner Harlan: It is simply all a matter of book

5745 entry?

Mr. Hole: Book entry; yes, sir.

Commissioner Harlan: And there is no authoritative rate under which those charges are made against the lumber company?

Mr. Hole: There could be none, because we are not recognized by the Commission of Texas.

Mr. Marble: You are not asking the Interstate Commerce Commission to recognize that portion of your line which brings the logs to the mill as a common carrier?

Mr. Hole: No.

Mr. Walter: We maintain that the whole road is an integral part. If it is a common carrier, it is all a common carrier; it does not apply to one mile, and then leave out the next.

Mr. Marble: Have you published any rates from the point where the mill is, or from the junction out to the points on your line from which the logs come?

Mr. Hole: No, sir.

Mr. Marble: Supposing the interstate shipments would come destined to the mill company, how would you make up your rates?

Mr. Hole: Upon the local rates, based on the Texas rate.

5746 Mr. Marble: Have you that filed with the Interstate Commerce Commission?

Mr. Hole: No, the Texas Commission rates I have not filed.

Mr. Marble: So you have not filed rates on that portion of the line as yet, at any rate?

Mr. Hole: No.

Mr. Marble: This charge of $3.00 per car, and this is the question I started to ask some time ago, I would like to know precisely what is done by this company in the way of transportation of logs. Where do you go to get that?

Mr. Walter: This is the Galveston, Beaumont & Northeastern?

Mr. Marble: The Galveston, Beaumont & Northeastern. Just what service does the railroad company perform for that?

Mr. Hole: They haul the logs from the point of origin in the woods to the mill.

Mr. Marble: It goes to the tree?

Mr. Hole: In the woods; yes, sir.

Mr. Marble: There are no spur tracks operated by a logging company?

Mr. Hole: No.

Mr. Marble: Does it load the logs?

Mr. Hole: No.

5747 Mr Marble: It takes the logs loaded on the cars?

Mr. Hole: After they are loaded by the mill company.

Mr. Marble: Does it lay the temporary spur tracks?

Mr. Hole: Yes, sir.

Mr. Marble: And takes them up?

Mr. Hole: And takes them up.

Mr. Marble: And replaces them as occasion arises?

Mr. Hole: As is needed.

Mr. Marble: And your expense account upon which this deficit is based, includes that cost of laying and removing and replacing the spur tracks in the forest?

Mr. Hole: It does.

Mr. Marble: Does it include any new construction other than that?

Mr. Hole: There has been no new construction in the last two years. It would include it, as fast as the line is extended.

Commissioner Harlan: Is it your understanding that all these railroad companies dump the logs into the pond?

Mr. Hole: All of them?

Commissioner Harlan: Yes; I mean your three companies.

Mr. Hole: At the point of destination?

5748 Commissioner Harlan: Yes.

Mr. Hole: Yes, sir.

Commissioner Harlan: And they participate in the loading of the logs out in the woods?

Mr. Hole: No.

Commissioner Harlan: That is all done by steam loaders?

Mr. Hole: That is all done by steam loaders.

Mr. Marble: Mr. Hole, the Louisiana & Pine Bluff Railway, which was under examination yesterday, did not undertake to charge the cost of laying those extreme spur tracks and removing them and relaying them, as a transportation charge, as I understood it, but started at some point which it considered as the main line to which those spurs came, the cost of the spurs being charged to logging operation. Do you think that is proper——

Mr. Walter: We object to any question of that sort.

Mr. Marble: Do you think that procedure is proper, or that the procedure you have adopted of charging that as a transportation charge is proper?

Commissioner Harlan: What was the question?

(Question read.)

Mr. Walter: We think it makes no difference what the
5749 Pine Bluff Road should have done in charging up certain items. This witness can tell about his own road, or what he would do under certain conditions, but the question is not proper.

Commissioner Harlan: The question does not ask him to pass upon the propriety of the charge of the Pine Bluff.

Mr. Walter: He says it is the proper way.

Commissioner Harlan: I take it the intention of the question was to ask the witness, as an expert in handling his business, whether his method is the proper method or some other method.

Mr. Walter: We want the Pine Bluff record read, and I ask that Mr. Marble's question be stricken out.

Mr. Marble: I am perfectly willing that it be stricken out. Do you think your policy of charging the cost of laying and removing the logging spurs in the forest is proper?

Mr. Hole: I do.

Mr. Marble: Why do you count that as a transportation expense rather than as a logging expense?

Mr. Hole: As a general proposition, the man that has charge of the railroad and is experienced in handling those things can handle them to much better advantage for the railroad company than
5750 to permit their cars to go out on tracks which are laid as a rule by people who do not understand the situation; that is, physical.

Mr. Marble: Do the logging companies have this experience you speak of?

Mr. Hole: Some of them do, and some do not.

Mr. Marble: That is all.

Commissioner Harlan: Now, I direct your attention, Mr. Hole, to Exhibit No. 3, being a statement of the tonnage and revenue of the Peach River & Gulf Railway for the year ending July 1st, 1910. You show their revenue on logs and lumber. That movement was for the controlling interest, was it not?

Mr. Hole: Yes, sir.

Commissioner Harlan: You had no outside traffic of any kind?

Mr. Hole: None of any consequence.

Commissioner Harlan: On the foot of that statement you have these words, "75 consignees." What is the meaning of that?

Mr. Hole: I was showing there the probable number or aggregate number of consignees to whom the lumber was consigned, that is what it was for. It is a matter of record.

5751 Commissioner Harlan: To interstate and state points?

Mr. Hole: To interstate and state points, yes, sir.

Commissioner Harlan: This company keeps no special bank account?

Mr. Hole: No; it is kept the same as the others.
Commissioner Harlan: It is cleared through the accounts of the lumber company?
Mr. Hole: Yes, sir.
Commissioner Harlan: Have you opened any general books for this company?
Mr. Hole: Only in the same style as the others.
Commissioner Harlan: You have the same agent at Washington?
Mr. Hole: Yes, sir.
Commissioner Harlan: Do you file annual reports with the Commission?
Mr. Hole: Yes, sir.
Commissioner Harlan: What equipment has that line?
Mr. Hole: Three engines and thirty cars.
Commissioner Harlan: Are they equipped with safety appliances, as required by law?
Mr. Hole: No, sir; they are not.
5752 Mr. Miller: We have a coach there, too, Mr. Hole.
Mr. Hole: Yes, there is one coach.
Commissioner Harlan: Do you have a passenger coach?
Mr. Hole: Yes, sir.
Commissioner Harlan: You make no use of it?
Mr. Hole: Very little.
Commissioner Harlan: You have no earnings from passenger business?
Mr. Hole: No.
Commissioner Harlan: That road is not recognized by the state commission as a common carrier?
Mr. Hole: No.
Commissioner Harlan: What allowances do you get there?
Mr. Hole: Since August 25, 1908 we get none.
Commissioner Harlan: Your connection is the Santa Fe?
Mr. Hole: The Santa Fe on the north, and we did have a connection with the Houston, East & West Texas on the southeast as shown there.
Commissioner Harlan: What became of that connection?
Mr. Hole: As Mr. Miller explained, we had a bridge that burned out there, and until this matter was settled, it has not been restored.
Commissioner Harlan: So that you are now getting no
5753 allowance?
Mr. Hole: None whatever.
Commissioner Harlan: Are you charging up any items against the lumber company?
Mr. Hole: Just the same as I did on the other line.
Commissioner Harlan: For what service?
Mr. Hole: For hauling the logs.
Commissioner Harlan: For hauling the logs?
Mr. Hole: Yes, sir.
Commissioner Harlan: Just tell us about that—well, if you are not getting any allowances, I do not think we need go into the details, but perhaps you might tell us where the mill of the lumber company is.

Mr. Hole: It is located on the line of the Santa Fe at Timber, Texas.

Commissioner Harlan: And your forests are where, out beyond Midline?

Mr. Hole: No, they are between Midline and Timber.

Commissioner Harlan: Does the lumber company operate its own trains over your line?

Mr. Hole: No, sir.

Commissioner Harlan: Does it operate these spur tracks?

5754 Mr. Hole: No, sir.

Commissioner Harlan: It has no spur tracks?

Mr. Hole: No, it has no spur tracks.

Commissioner Harlan: You build the spurs as required by the lumber company?

Mr. Hole: The same as in the other case.

Commissioner Harlan: You follow the for-st?

Mr. Hole: Yes, sir.

Commissioner Harlan: What charge do you make against the lumber company for hauling the logs to the mill.

Mr. Hole: $3.00 per car.

Commissioner Harlan: Has it been collected, or is that still charged up?

Mr. Hole: It is still charged up to them.

Commissioner Harlan: Have you not a charge of $9.00 a car on some traffic?

Mr. Hole: No, not that I know of.

Commissioner Harlan: I have here an item to the effect that the lumber company pays you $9.00 a car from points on your line to points on your connecting carrier line, and $3.00 on logs from point on your line to the point of manufacture.

5755 Mr. Hole: I assume where that $9.00 comes in is where we make the average of 45,000 pounds of lumber per car at two cents per hundred pounds; that is how that is arrived at, and in the matter of keeping a record of tonnage——

Commissioner Harlan: What record are you keeping at the rate of two cents per hundred, and against whom and for what service?

Mr. Hole: Figuring on the same basis we were allowed before by the Santa Fe, before it was cancelled, of two cents per hundred pounds.

Commissioner Harlan: And you are charging that against the lumber company?

Mr. Hole: Yes, sir.

Commissioner Harlan: What service on the manufactured lumber do you perform?

Mr. Hole: We perform no service on the manufactured lumber delivered to the Santa Fe, but we did perform the service of twelve miles on the lumber delivered to the Houston, East and West Texas, and the Santa Fe allowed us the division in order to get the business.

Mr. Marble: I would like to ask one question more on the line which I followed a moment ago. This matter of the tem-

5756 porary track. From your railroad experience, do you percieve any distinction that should be drawn between the mill

and the tree, that some of the tracks should be regarded as carrier tracks and some as logging tracks, or is it all one thing?

Mr. Hole: Well, in our case it is all one thing.

Mr. Marble: The temporary tracks and the more permanent tracks which lead away from the mills seem to you to be all part of one plant?

Mr. Hole: All parts of the railroad plant. The lumber plant I have nothing to do with whatever.

Mr. Marble: And the temporary tracks seem to you to be just as much a part of the railroad plant as the more permanent parts which lead away from the mill?

Mr. Hole: Yes, they serve their purpose.

Commissioner Harlan: Suppose the joint rate is not re-established between your line and the Santa Fe line, what becomes of that two cent charge?

Mr. Hole: It would still be charged against the lumber, and would be a matter to be arranged between them, and as they are identical——

Commissioner Harlan: Would you regard it as a lawful
5757 charge which could be collected against them as a common carrier?

Mr. Hole: I am sure I could not say.

Mr. Marble: Is this two cent rate published with the Interstate Commerce Commission?

Mr. Hole: Yes, sir.

Mr. Marble: Do you not consider you have a legal duty to collect it?

Mr. Hole: I should judge so.

Mr. Marble: And collect it at current intervals, instead of holding it in reserve.

Mr. Hole: That is a matter to be entirely handled by the treasurer and people who have that in charge.

Commissioner Harlan: What do you say to that question, Mr Miller?

Mr. Miller: I did not hear it.

Commissioner Harlan: The question is put to this witness, what is to become of the charge of two cents per hundred pounds that you make against the lumber company if the joint rate is not re-established with the Santa Fe?

Mr. Miller: I believe if the system of making blanket rates on lumber is done away with, then the rates will be made on
5758 combinations at or through junctions, and we shall then insist, and I shall insist as an officer of the railroad company, of the lumber company paying us these arbitrary amounts of two or three cents per hundred pounds, whatever they are, up to the junctions, making their through rates that much higher.

Commissioner Harlan: You would insist upon it with the Allen Company and with your own company?

Mr. Miller: No, we have an agreement. I expect to remedy the situation with the Allen Company by building this Riverside & Gulf to another outlet. In connection with Mr. Keith we expect to estab-

lish a joint line of railroad of about 75 miles, and I consider that condition temporary.

Commissioner Harlan: What is the contract your lumber company has with the Allen Lumber Company?

Mr. Miller: Well, it is not a contract; it is a verbal agreement I made with Mr. Allen if he would locate his saw mill on our railroad, we would give him the same rates he would get on any other railroad.

Commissioner Harlan: Was the Santa Fe a party to that understanding in any way?

Mr. Miller: Only to this extent, they had assured me they
5759 would pay this division, and had division sheets and were paying them, and I had no reason to believe there would be any change. You will see from the report we are filing with the Interstate Commerce Commission that railroad is handling about 200,000 tons of stuff, and I believe we can make it handle a great deal more than that, and I think we can make it well worth while to put some more money into it and make it a better railroad and control a very large amount of tonnage.

Commissioner Harlan: As I understand it, you regard the railroad which hauls these logs for the Allen Lumber Company as a common carrier.

Mr. Miller: That is not the case. In the first place, my relations with Mr. Allen began as an individual before this railroad proposition was organized, and we had memorandum agreements between us which bound our assigns and successors, and when the railroad company was organized, of course they were charged with carrying out those agreements.

Mr. Coleman: I would like the dates on that.

Mr. Miller: We do not do any logging for Allen; they do their own logging. They simply have the right to run their train over
our main line, for which they pay a fixed amount per car
5760 which is paid in money each month.

Commissioner Harlan: Have you the written contract?

Mr. Miller: I haven't it here.

Commissioner Harlan: We would like to have a copy.

Mr. Miller: I can prepare copies and file them.

Commissioner Harlan: And also a copy of the assignment of that contract or its obligations to the railroad company. You have that?

Mr. Miller: The original agreement between Mr. Allen and myself was, I think, confirmed in writing by an interchange of letters.

Commissioner Harlan: Let us have a copy of the letters.

Mr. Coleman: Might I ask that he fix the date? Could you fix the date of your first understanding with Mr. Allen, Mr. Miller?

Mr. Miller: Yes, sir.

Mr. Coleman: Just in a general way.

Mr. Miller: About July, 1906.

Mr. Coleman: That was before you had built your railroad?

Mr. Miller: That was before I acquired those lands.

Mr. Coleman: That was before you built the railroad?

Mr. Miller: Yes, sir.

5761 Mr. Cowan: I want to ask you, Mr. Miller, you said you would insist on the lumber company paying the railroad company that two cents per hundred pounds under certain conditions named in the question awhile ago.

Mr. Miller: Yes, sir.

Mr. Walter: I must object to any questions on that subject unless they come from the Commission.

Commissioner Harlan: I put that question to you, Mr. Miller. I put the question again. In case that joint rate is not re-established, I understood you to say you would insist on the collection of the two cents from the Allen Lumber Company as a local movement. Is that so?

Mr. Miller: Yes, sir, the situation would be like this. Mr. Allen and myself made these contracts between us as individuals and Mr. Allen then conveyed his rights to a corporation and afterwards I formed what was known as the Miller-Vidor Saw Mill Company, a Texas corporation, and I organized the Riverside & Gulf Railway company and another Texas corporation. The agreements I had with Allen about his rates were taken over from me by the Miller-Vidor Company, and after awhile it went out of business and the charter was dissolved, and its obligations were taken
5762 over by the Miller-Vidor Lumber Company, which at present stands for it. The railroad company I have always regarded as a common carrier and have tried to preserve the records in such a way that when the questions were eventually settled, there could be an adjustment between the companies which would show the outcome of the thing. While it is true to a large extent the same parties would be at interest, still, so far as the operations of the corporations go, or their records, it will show the exact state of affairs.

Mr. Cowan: I would like to get the Commissioner to accommodate Mr. Walter and myself, and to ask one question, and that is to whom would he insist that payment would be made by the lumber company to the railroad company. He says he would insist upon it. I want to know from whom.

Commissioner Harlan: Well, I will put that question.

(Question read.)

Mr. Miller: I don't know that I can understand such an involved question as that.

Mr. Cowan: You refer——

Mr. Walter: The Commissioner will put the question so you can understand it.

(Question again read.)

5763 Mr. Cowan: The point I want to draw out is——

Commissioner Harlan: If the rate is not re-established, to whom is this two cents to be paid?

Mr. Miller: If the rate is re-established, I expect to collect those divisions, so much of them as have not been outlawed, from the connections, whenever we get to that decision.

Commissioner Harlan: My question is, if it is not re-established.

Mr. Miller: If it is not re-established, I will collect it from the lumber company.

Commissioner Harlan: You mean the railroad company will collect it from the lumber company?

Mr. Miller: Yes.

Commissioner Harlan: What lumber company?

Mr. Miller: The Miller-Vidor Lumber Company.

Commissioner Harlan: Then in other words, the Miller-Vidor Lumber Company regards the obligations that the railroad company has with the Allen Lumber Company as its obligations?

Mr. Miller: Yes, sir, and the contracts so state.

Mr. Cowan: Speaking through the Commission, if I may——

Commissioner Harlan: I am entirely willing to put your
5764 question, Judge Cowan.

Mr. Cowan: I am trying to punctuate the point that there is no volition between this railroad company and the lumber company. To what individual would you apply to collect that money? You represent the railroad company and the lumber company. To what individual would you apply to collect the money?

Commissioner Harlan: I think it sufficiently appears, to whatever individual he applied, he would look to the Miller-Vidor Lumber Company to make good the bond.

Mr. Cowan: The point is, there is an identity of the two concerns, so that of necessity there is no insistence about it. He would decide whether to do it or not——

Commissioner Harlan: That can be assumed on the record already made.

Mr. Marble: I suggest it might be well to apply to the Interstate Commerce Commission also, inasmuch as your rates now are the combination, and you propose to collect a rate less than that combination.

Mr. Coleman: May I ask Mr. Hole one question? What line is it that has the bridge burned down?

Mr. Hole: The Peach River & Gulf.

5765 Mr. Coleman: You said the Santa Fe allowed you a division on the Peach River & Gulf to get the business away from the Houston, East & West Texas; is that right?

Mr. Hole: Well——

Mr. Coleman: It was not until the Houston, East & West Texas made a connection with them that they gave you the division?

Mr. Hole: The division was made before I took charge of the railroad property, and the Santa Fe put in a line of divisions with us and accepted the business at Timber, and consequently we did not build to the Houston, East & West Texas at Midline because it saved a 12 mile haul.

Mr. Coleman: If you know this, I want you to say this, and if not, say so.

Mr. Walter: I think that is uncalled for.

Mr. Coleman: He says the Santa Fe people put in the division——

Commissioner Harlan: Put your question and frame it properly.

Mr. Coleman: Is it not so that the Santa Fe did not give you a division until the Houston, East & West Texas connected
5766 with your rails?

Mr. Hole: I do not know, because I was not there.

Mr. Coleman: When you say the Santa Fe did it to get the business from the Houston, East & West Texas you do not know what you are talking about.

Mr. Hole: I most certainly do, because if they put in the division they expected to get the business, and they would not put it in as a paper rate.

Commissioner Harlan: That seems to be all.

Mr. Cowan: I would like to ask one question, that is, whether or not the two cents for hauling to the Houston, East & West Texas was a sufficient compensation that would make it profitable for your mill to haul it twelve miles in order to get the two cents.

Mr. Hole: Would it make it profitable?

Mr. Cowan: In your opinion; you know the property and you are a railroad man. Would it be sufficiently profitable to haul it to the Houston, East & West Texas twelve miles to get a division of two cents rather than let the Santa Fe handle it at the mill for two cents?

Mr. Hole: Certainly it would be better to let the Santa Fe have it.

5767 Mr. Cowan: The two cents per hundred pounds would not pay for handling it?

Mr. Hole: Practically it would pay the expense, yes, and possibly with the development otherwise it would enter into part of the earnings.

Mr. Cowan: Do you operate these railroads now as common carriers?

Mr. Hole: I try to, yes, sir.

Mr. Cowan: What item of expense do you go to over and above what you would have were you not operating them as common carriers?

Mr. Hole: I don't know as I go to any. I keep them in physical condition so they can be operated.

Mr. Cowan: That is all.

Mr. Coleman: I would like to ask Mr. Miller if he regards a railroad as necessary to the operation of an extensive saw mill.

Mr. Miller: Yes.

(The statements so offered and identified were received in evidence and thereupon marked Peach River Lines Exhibits Nos. 1, 2 and 3, Witness Hole, received in evidence January 28, 1911, and are attached hereto.)

5768 Commissioner Harlan: There is now a contested case to be heard, the Southwestern Produce Distributors, against the Wabash Railroad. I understand Mr. Ziebold desires to make a statement, and we will hear it now.

Mr. Ziebold: You Honor will remember at the hearing in New

Orleans I presented a number of requests for certain information. At the suggestion of Mr. Examiner Burchmore, I renewed the requests in a letter to the Commission, to which I received a reply from your Honor, and in which your Honor suggested, among other things, that I renew the request at this continued hearing, and at the opening of the case on the part of the intervenors, which I understand, however, will only take place in Chicago possibly on Monday. I will not be able to be there at that time, and would not be able to present it in person——

Commissioner Harlan: Very well; we will hear the request now. We will wait until the parties in the adjoining room are notified.

Mr. Walter: While Judge Cowan is coming, I desire to file certain exhibits. A map of the Bearden & Ouachita River Railroad, and also a map of the line of railroad and the timber holdings of the Thornton & Alexandria Railroad, and the lumber
5769 company affiliated therewith.

Commissioner Harlan: They may be received.

(The papers referred to were marked "Filed.")

Mr. Marble: Judge Cowan is not there, but Mr. Coleman will hear it.

Mr. Ziebold: The requests made at that time were three in number. The first was to the general effect that the trunk lines parties to this proceeding be requested to file with the Commission a narrative statement of their origin and growth, showing in detail the new lines constructed and otherwise to indicate the manner of their origin, development and extension and growth to their present dimensions. The purpose of the testimony being to show that in their origin these trunk lines of today were of no greater extent, mileage or importance than the so-called tap lines now under consideration at this hearing. As to this your Honor suggested it might not throw much light on the proceedings, but it would involve considerable labor and effort on the part of the trunk lines to furnish the information, and that it is a matter of common knowledge, especially as respects the Iron Mountain, that that was a matter practically of development and extension. Now, if we may take it
5770 that it is conceded by the Commission as part of the record in evidence in this proceeding that that is the fact, and that it was the situation and the manner of growth and extension of these trunk lines, then we will not wish to urge the request any further, being satisfied with that concession on the part of the Commission as to that request.

Commissioner Harlan: Perhaps "Concession" is not quite the right word to use in this connection. It has been my understanding, and I have no doubt the understanding of the Commission, from time to time various so-called tap lines have been incorporated into the systems of regular lines; whether they become a part of the main line or part of a lateral or branch line, attached to such system, I do not know at this moment. I suppose there are cases where tap lines have become part of the main line of a regular car-

rier. I think that is generally known, and I believe I stated in my letter to you that that knowledge was in the general possession of the Commission.

Mr. Ziebold: But this is the particular point, with all deference to the Commission. The matter may not end before the Commission; it may be removed to some other tribunal.

5771 Commissioner Harlan: Are there any suggestions to be made on behalf of any one with respect to this request of Mr. Ziebold's?

Mr. Coleman: I do not see how it has any bearing on the matter. We could have the historian furnish that, if the gentleman wants to prove it, and it can be proven; I suppose he can do it as well as anyone.

Mr. Marble: I would like to say it seems to me as a stipulation or admission that that would be exceedingly loose and indefinite, and would presuppose an agreement as to facts which certainly does not exist here on any point. That is to say, it supposes that we are agreed as to the character of the present tap lines. Now, then the tap lines sharply distinguish themselves one from another in their own arguments. Now, which ones would this mean, and which trunk lines would it mean? Their histories are different one from the other, and a blanket assimilation of the two, one with the other, without any distinction as to facts would be without any accuracy and without any force to anybody.

Mr. Ziebold: The question, I understand, is going to be on the construction of what is a common carrier, within the meaning of the Interstate Commerce Act. The question is going to be

5772 further, when the Commission comes to construe what is a common carrier under the Interstate Commerce Act, whether that construction shall be liberal and in favor of the so-called short lines, and to carry out the fundamental purpose of the Act, or whether the construction shall be strict and technical, and which might be against the so-called short lines. We take it, for instance, that the fundamental purposes of the Act to Regulate Commerce is to prevent discrimination and compel reasonable and just rates. But from our position we contend that the intended ultimate beneficiary of the Act was not as seemingly is taken for granted here at times, the shippers and the carrier, but the general public, the consuming public. If we could persuade the Commission that that is the fact, then under the general rule of law that all acts should be construed broadly to carry out their intended purpose and to operate in favor of the intended beneficiary, then this act should be construed broadly and liberally in favor of the short lines to encourage the extension and operation and building of existing short lines into future trunk lines, in order thereby to furnish competition and increase transportation facilities, which would then be had

5773 at reduced rates, and operate to the benefit and advantage of what we claim to be the intended beneficiary, the general consuming public. That is why I consider the objection immaterial and irrelevant.

Commissioner Harlan: Mr. Garwood, speaking for the regular

lines with which you are associated, have you any suggestions to make?

Mr. Garwood: I just wish to say this, your Honor, with reference to that, speaking now for those lines. Of course we have not the slightest disposition to withhold any reasonable amount of information that anyone connected with the litigation would demand. It occurred to me, however, and I so stated at the time the notice was served at New Orleans, that to produce a connected history of these lines would involve a vast amount of labor; it would involve as to our lines the digging up of ancient acts of the legislature, special acts permitting acquisitions and amending of charters and things of that sort. Now, it occurs to me that the proposition that a court, to a certain extent, will take judicial knowledge of the course of location and the general history of a railroad would cover the proposition for all purposes that the gentlemen would
5774 need it. It is a matter of industrial history as to the growth of these lines, and in argument before courts and commissions, such matters are covered rather by historic references than by the actual production of testimony. Now, if we were to go into that, we would fill the record. I have endeavored from time to time, perhaps at some little length, by apposite examples in the immediate territory involved, to illustrate the proposition which I think the gentleman is trying to reach, and from time to time in the evidence, as your Honor will recollect, I have referred to particular lines for the purpose of that argument, so far as it may throw any light upon the general discussion. I hardly believe any strong purpose would be subserved by calling upon us here to furnish an accurate history, detailed history, of all of these lines. I can state to the gentleman in a general way, how our Texas lines grew up, but I would not like to file an exhibit without it was accurate, as to dates, acquisitions, and so forth, and it would entail a vast amount of labor. I have often thought just for my own and for my clients' information I would some time compile that work, but the immensity of it has kept me from doing it for my own uses up to this time.

Commissioner Harlan: The Commission rather more
5775 freely than a court does take judicial notice of facts which are somewhat of common knowledge, and it is our duty to advise ourselves what the fact is sometimes, and I am impressed by the suggestion of Mr. Garwood, that we have the right and perhaps in this case it would be our duty to look into this matter. Would it not suffice all your purposes if you were advised by the Commission that in presenting your argument you might direct our attention to what you understand to be the history of a typical line or one or two typical lines in that regard, and the Commission could then, so far as it might deem it necessary to be more fully advised, take its own means of looking into the matter? That would give you the opportunity of using in argument what you understand to be the facts, and to argue the case from that point of view.

Mr. Garwood: I wish to state, Mr. Commissioner, that I have

never heard it questioned that in the matter of general history of this sort, even in an argument before a court, that as illustrative, that not being the direct point at issue, that as matter of history you are at liberty to refer to such things, and the value of your reference will of course depend upon the accuracy of it, even if presentations of matter of this character on ultimate argument before
5776 courts.

Mr. Ziebold: That will be satisfactory to me, although I will state briefly that the gentleman evidently misapprehends my request. I am not asking for a historical review of the details of the roads. I am only asking in a general way, which could be covered in one or two pages of typewriting. The original construction, as has been requested, of these lines was so many miles, and its present construction so many miles. The original construction was so much, and in the intervening years it grew from fifteen miles to 500 miles; or whether that construction was the original line of its own construction or whether the 500 miles today is the combination of ten other short lines, each so many miles long, to that general effect is what I want.

Commissioner Harlan: Most of that is indicated in one way or another in the records of the Commission, and of course the entire records of the Commission are available to the counsel and to the Commission, and so it seems to be that perhaps your point is fully met by the suggestion that you are at liberty to refer to such facts and argue upon it.

Mr. Cowan: Before that point is passed, I would like to state that my recollection is in the examination of Poor's Manual
5777 you will find the history of every railroad in the country, if you will go back through those volumes.

Mr. Ziebold: If it is admitted that that manual states the fact correctly for the purpose of this record, that is satisfactory.

Mr. Cowan: I just make that suggestion because I happen to know there is a great deal of information contained in that work.

Mr. Coleman: We do not want anything in the record to be taken as admitting anything of that sort. It may be so, and it may be argued, but we are not admitting anything.

Commissioner Harlan: It is not to be understood that there is any admission in the record on this point.

Mr. Ziebold: The second request was that the Santa Fe file with the Commission a statement indicating the various short lines purchased by it, and the considerations therefor and the contract obligations connected therewith as to those short lines, and the associated lumber or other interests connected with them. The purpose of this evidence being to show that the short lines in the Santa Fe territory now practically represented by the intervenors here, have been turned over to the Santa Fe under purchases and con-
5778 tractual conditions by which they have received considerations equivalent to the divisions now enjoyed by the short lines. As to this request, your Honor suggested that it be renewed at the further hearing, when the intervenors present testimony in support of their contention. In other words, we contend that hav-

ing received their divisions in the form of trackage rights and other privileges, that fact should be shown.

Commissioner Harlan: Without passing upon the general relevancy of that request to this inquiry, it is obvious, I think, that it ought not to be made at this time. Your own statement indicates the possibility that that information may be brought out when the intervenors are before us, and if it is not convenient for you to be at Chicago, you will at least have an opportunity of examining the record and what is disclosed at that time, and this request will be shown in the record and will be passed upon later.

Mr. Ziebold: My idea was that if the information was filed, I might not find any occasion for cross examining at all; if it was sufficiently ample for my purpose.

The third request was that the intervenors file with the Commission a statement of their lumber and their price lists f. o. b.
5779 the mill and their delivered price lists, and their various concession sheets in use now and for the past few years. As to this your Honor stated you will recall none of the parties have been required to give the details of their lumber business. And I wish to call your Honor's attention to this distinction. That is correct as stated, but with this distinction, that in this proceeding the lumber companies or lumber interests associated with the so-called short line railroads who are not a party to this proceeding, because of which it was held they could not inquire into their private business, but only of the railroads, but as concerns the intervenors, they are here as lumber companies, claiming their business is being discriminated against, and that presents quite a different situation and to my mind makes it entirely competent for them to be called upon for this information.

Commissioner Harlan: Well, Mr. Ziebold, surely that request ought not to be passed upon until the intervenors' case is before the Commission, and besides that, and in addition to that, the Commission is always very careful not to embarrass commercial enterprises by requiring information that may be embarrassing,
5780 particularly information that might be of use to their competitors. Now, so far, we have not gone into those questions, and I do not see how, fairly, we could, but yet at the same time something may develop when the intervenors' case is before the Commission that may make it entirely proper.

Mr. Ziebold: How can it be embarrassing to the intervenors to inquire into their business, when they are here asking relief, and leave to be heard, on the ground that their business is being discriminated against on account of these divisions? Suppose it would appear from their price lists and concession sheets that they were receiving higher prices and greater net revenue without the divisions than are the lumber companies which enjoy the divisions.

Commissioner Harlan: It still might be a prejudice against them.

Mr. Ziebold: That should be immaterial. They have called the prejudice upon themselves. They cannot ask for privileges without assuming the obligations.

Mr. Garwood: Might I suggest I gave a little notice to produce

when we were exchanging courtesies of that character at New Orleans. I made it as broad as I thought the situation demanded, in order that the intervenors might be on notice as to the pos-
5781 sible scope of the inquiry, as we conceived it might be material and proper, but it occurs to me that all of those are questions which will properly arise when the case comes up, and can be disposed of at that time.

Commissioner Harlan: It may be that it will be proper from the general point of view and more immediately from the point of view of what is brought out by the intervenors, but obviously it is not a proper question to be passed upon now, and as Judge Garwood has made practically the same request, I presume you would be willing to have him look after the matter at Chicago.

Mr. Ziebold: I certainly will, if that is his intention, to achieve the same result.

Mr. Walter: May I inquire if it is definitely understood that we will resume labor in Chicago on Monday at ten o'clock?

Commissioner Harlan: Yes. There may be one or two cases which Examiner Burchmore has in the adjoining room, but with that exception, we will resume in Chicago Monday morning.

Mr. Cowan: Before you adjourn there is a matter I have intended to call attention to, and all the attorneys have con-
5782 curred in it, to whom I have spoken, and that is in the idea when we come to brief and argue this case the difficulty must be apparent, and when the Commission comes to consider it, that also appears; nothing is exemplified so well as the necessity for a correct or substantially correct map. Here are a hundred, or how many hundreds I don't know, but a great many railroads with their various connections and situations relative to the main line, and each other, and I want to make the request, and I have understood that counsel on the other side join in that request, and would be glad to do it, that the Commission have this data, and having the maps which are filed, that it compile in some form or some sort of scale maps, taking Arkansas as one and Louisiana as another and Texas as another, so there will appear on the map all the trunk lines and all the tap lines, and that will enable us at a glance to see the situation. Of course it is a considerable expense, and will cost several hundred dollars and a great deal of work, but the Commission is the only body which can do it, because you have very capable examiners, as everybody recognizes, who are so intimately acquainted with the subject that they, in connection with a good map maker at Washington, will be able to compile a map
5783 so we can all use it with profit.

Commissioner Harlan: You mean, for instance, a map of the State of Arkansas, indicating generally the tap lines? You do not mean a map that would indicate the switch connections and the relation of the mill?

Mr. Cowan: No, that would be impossible on a map of ordinary scale.

Commissioner Harlan: I think we can do that.

Mr. Cowan: I do not know how we can brief the case unless we

do that. There was another thought we talked about in addition to that, and that is, how are we going to handle the case and brief it in any reasonable time without the documents that have been filed as exhibits? A great many documents have been filed, and no copies prepared or furnished, practically, and it did not seem it was practicable to do it at the time the parties had their documents and we were hurrying along as best we could, and there was no opportunity for copies to be made. It was not negligence exactly and there was no purpose to refuse it, but now suppose we go there, Mr. Andrews and I, representing the intervenors; we want to get this record for the purpose of briefing our case, and going
5784 over these documents. The Commission's rule, of course, does not permit the records to be taken away from the Commission's office, but there is no place there to do it, hardly, and I wondered if the Commission would itself desire to have some sort of brief abstract made of the material points; I do not mean all the documents, but the most material things that its examiners might think were material, some brief abstract made for our convenience, or at least the convenience of those who see fit to use them, of the filed documents that are to be used. Of course if any gentleman prefers not to rely upon that abstract, that is all right, but I do not know how we can ever brief and handle this case in argument unless we have some sort of brief abstract of the documents which we do not possess, and which are not explained in detail in the oral testimony of the witnesses.

Mr. Walter: On that request, I think it would hardly be within the province—I shall hardly say a proper manner of dealing with this case, since I think it is apparent to all that there has scarcely been an inquiry by the Commission in any condition of affairs that has been conducted more zealously and with more idea of going into the infinite detail than this hearing here, and I think we
5785 should not care to have it tried upon an abstract of facts or a record which the examiners might think was proper; that is, with all due regard to the ability of the examiners, but I think the scope of this inquiry has indicated that we had better furnish our own reference to the record.

Commissioner Harlan: Of course counsel for particular roads will do that. All that they seem to think essential they will put before the Commission in their briefs.

Mr. Walter: Yes. At the general hearing I do not think it should be left to an abstract.

Mr. Coleman: I would suggest it would be far cheaper to print the exhibits furnished by the various tap lines, the whole of them, than to force your examiners to spend probably months abstracting them, and we could print several copies of them, like a record in the Circuit Court, which would serve the purpose.

Commissioner Harlan: The Commission will endeavor in some way, and as broadly as possible, to meet the suggestions which Judge Cowan has made, and we will leave every particular line at liberty to present its case to the Commission as it chooses. But the
5786 Commission will endeavor to carry out the suggestion of Judge Cowan.

Whereupon, at 11:00 A. M., an adjournment was taken to Monday, January 30, 1911, at 10:00 A. M., at Chicago, Illinois.

5787 ST. LOUIS, MISSOURI,
January, 26, 1911—8 o'clock, p. m.

Supplemental hearing held before Special Examiner John D. Burchmore.

Met pursuant to notice.

Beaumont & Saratoga Transportation Company.

Mr. Garwood: Your Honor, I will state by way of preliminary, that this road is not chartered under the general railroad statute, but chartered simply as a transportation company for goods, wares and merchandise, and it does not include passengers. I will state that by way of preliminary. It is a common carrier, but it is not under the general railroad statute.

R. E. MASTERSON was called as a witness herein, and having been duly sworn, testified as follows:

Direct examination:

Examiner Gutheim: What is your name?
Mr. Masterson: R. E. Masterson.
Examiner Gutheim: And your residence?
Mr. Masterson: Voth, Texas.
Examiner Gutheim: What is your occupation?
Mr. Masterson: Traffic Manager.
5788 Examiner Gutheim: Of the railroad of the Beaumont & Saratoga Transportation Company?
Mr. Masterson: Yes, sir.
Examiner Gutheim: You may describe the general location of this road and if you have a map you can——
Mr. Masterson: I will let you look at that map and I have another one (handing map to Mr. Gutheim).
Examiner Gutheim: Will you attach that as an exhibit to your testimony?
Mr. Masterson: Yes, sir.

(The map so offered and identified, was received in evidence, and thereupon marked "Masterson Exhibit No. 1, received in evidence January 26, 1911," and is attached hereto.)

Examiner Gutheim: If you can, Mr. Masterson, will you state generally what you know about the physical and financial operation of this company?
Mr. Masterson: Yes, sir. Do you want me to first state where it runs from?
Examiner Gutheim: Yes, if you will.
Mr. Masterson: All right. In that connection you will notice that

it starts at a station called Voth on the Santa Fe, goes from
5789 Voth on the Santa Fe to Voth on the T. & N. O. The original station on the Santa Fe was called Funston, but has recently been changed to Voth. From Voth on the T. & N. O. it extends in a westerly direction to a station called Pelt. The distance from Voth on the Santa Fe to Voth on the T. & N. O. is three-quarters of a mile. From Voth on the T. & N. O. to Pelt, the western terminus, is a distance of twelve miles. Now, this branch was once extended from the station we called Sour Lake Junction on the map to Brazier, a connection on the Beaumont, Sour Lake & Western. You will notice that we have that line dotted.

This extension—the rails on this extension from Sour Lake Junction to the town of Brazier, has been taken up, but it was originally taken over as a branch of the Beaumont & Saratoga Transportation Company, but since the agitation of tap line divisions came about, we took up that as well, but it is our intention to replace it provided we are successful. Between Voth on the Sante Fe and Voth on the T. & N. O. is located the Keith Lumber Company. We have a station in there that we call Keith's Mill, which is what we call a regular station of the Beaumont & Saratoga Transporta-
5790 tion Company.

Now, the end of the track toward Saratoga, as stated previously, is called Pelt. No station has been erected there yet. It is the intention to erect a small depot, as there are in the neighborhood of twelve or fifteen farmers there, they are anxious for us to establish a depot and they want to petition the Government and ask for a post office. It is quite a neighborhood of farmers and stock raisers there, and they haven't any post office or means of transportation any nearer than Sour Lake, about six or eight miles.

The Beaumont & Saratoga Transportation Company is an original corporation, incorporated in 1906, and took over some properties that were originally held by the Keith Lumber Company. The capital stock of it is $20,000, all of it issued and outstanding, but it is held in trust by one of the stockholders of the Keith Lumber Company for the Keith Lumber Company.

The indebtedness of it is at the present time around $99,000, which amount is owed to the Keith Lumber Company. The railroad company does not carry the financial account itself, but all receipts being turned over to the Keith Lumber Company, they support the railroad.

5791 The railroad owns four locomotives, two of which are rented to the Keith Lumber Company, and it owns seven flat cars, which it only uses in transporting freight about on its own lines. The locomotives and flat cars are all equipped with safety devices and the railroad, as Judge Garwood said, does not do any passenger business. We are just incorporated as a transportation company to provide for the transporting of goods, wares, and merchandise. Of course, we have no passenger business, do not have any mail or carry any express, and we do not file any local tariffs, but we have local notices we have posted stating that we have a local rate of 8 cents per 100 on merchandise between points

on the line; $3.50 per car for logs. This is just a local notice posted up, not in the nature of a tariff. Between the connection on the Santa Fe, which is called Voth, and the connection on the T. & N. O., which is called Voth, is located Keith's Mills, and the Beaumont & Saratoga Transportation Company owns all of the track between these two connections which the mill is located on, and this is the track where the exchange of lumber is made to the trunk lines. We have not been doing all of the switching there.

5792 The Beaumont & Saratoga Transportation Company, not getting any division on intrastate business, and not a division on all interstate points, we have allowed the T. & N. O. and the Santa Fe to go in over the track and switch out such cars as they would have to go, and we switch out part of them. We make no distinctions, going for such cars as we get a division on, where we do the switching, and they do the same thing.

Examiner Gutheim: Is that all?

Mr. Masterson: Yes, sir.

Examiner Gutheim: This road is a standard gauge line throughout?

Mr. Masterson: Yes, sir.

Examiner Gutheim: About how heavily built is it?

Mr. Masterson: You mean——

Examiner Gutheim: The weight of the rail.

Mr. Masterson: The weight of the rail?

Examiner Gutheim: Yes.

Mr. Masterson: Yes. About three-fifths of them 40 pounds, one-fifth 35 and one-fifth, 56 and 60.

Examiner Gutheim: What is the total mileage that you now operate from Voth on the Sante Fe to Pelt, that is, the main

5793 line mileage.

Mr. Masterson: We count it twelve miles.

Mr. Gutheim: What was the date that the branch from Sour Lake Junction down to Brazier was taken up?

Mr. Masterson: It was taken up about March, 1910.

Examiner Gutheim: At Brazier did you have a Frisco connection?

Mr. Masterson: Yes, sir.

Examiner Gutheim: But notwithstanding that you took up the track from Sour Lake Junction down to that point.

Mr. Masterson: Yes, sir.

Mr. Gutheim: As a matter of fact, were you logging on that track?

Mr. Masterson: Prior to that time the Keith Lumber Company built the spur down there, the logging road, and about that time they got through cutting timber down there and we took it over as a railroad track and made our connection with the Beaumont, Sour Lake & Western, and kept them in possibly until after the Keith Lumber Company removed their logging camp from that section.

Mr. Gutheim: During the time that you operated there was no logging by the Keith Lumber Company going on on that

5794 branch?

Mr. Masterson: No, sir. If it was, it was only a short time. I don't think it was any time at all.

Examiner Gutheim: Isn't the line from Sour Lake Junction to Pelt a comparatively new piece of property?

Mr. Masterson: It has been constructed there, I presume, a year, maybe about that time I think.

Examiner Gutheim: And are any of the timber holdings of the Keith Lumber Company located along that line between Sour Lake Junction and Pelt?

Mr. Masterson: Yes, sir.

Mr. Gutheim: And are they logging in that vicinity at the present time?

Mr. Masterson: Well, they have branched a little south now and then run a distance westerly from Pelt, the Keith Lumber Company have.

Examiner Gutheim: At the time that the railroad property was taken over by the incorporators of the railroad company, was it extended from Voth on the Santa Fe to Sour Lake Junction and then down to Brazier?

Mrs Masterson: No, sir.

Examiner Gutheim: How far had it been built?

5795 Mr. Masterson: I think—my impression is that it was two miles out from Voth.

Examiner Gutheim: That is, it was a little beyond Voth on the T. & N. O.?

Mr. Masterson: Yes, sir.

Examiner Gutheim: Well, what is this town noted on the map as Saline?

Mr. Masterson: Saline is one of our spurs. There is a couple of farmers living over there, and also a water tank.

Examiner Gutheim: Was it anything before the road was built out there for the purpose of getting out the timber?

Mr. Masterson: No, sir.

Examiner Gutheim: That is, the road had extended that far as the extent of the lumbering operations of the Keith Mill?

Mr. Masterson: Yes, sir.

Examiner Gutheim: How about the station called Moon?

Mr. Masterson: Moon is a tie camp and also a spur of the Keith Lumber Company, where they branch north.

Examiner Gutheim: Are the ties taken off by individual contractors from the lands of the Keith Company?

Mr. Masterson: Most of them are tie contractors, cutting

5796 the ties from land of one or two other parties that live out there.

Examiner Gutheim: And was Sour Lake Junction originally a logging camp of the eKith Mill also?

Mr. Masterson: No, sir; the track was built to Sour Lake Junction by the railroad after it was incorporated.

Examiner Gutheim: The construction of this road has proceeded from time to time about contemporaneously with the logging needs of the Keith Lumber Company?

Mr. Masterson: Yes, sir.

Examiner Gutheim: You said outside of $20,000 worth of capi-

tal stock that was held in trust by the Lumber Company, there was a debt of about $95,000, which was also due the Lumber Company. Is any interest paid on that indebtedness?

Mr. Masterson: It bears 6 per cent interest, but so far the railroad has not been able to pay it.

Examiner Gutheim: They do not pay it, they just write it up?

Mr. Masterson: Yes, sir.

Examiner Gutheim: Did you get any divisions from the Frisco Line, with which you formerly had connection at Brazier?

Mr. Masterson: Yes, sir, we did.

5797 Examiner Gutheim: Notwithstanding which you took up the tracks from Sour Lake down to that point?

Mr. Masterson: I did not understand that.

Examiner Gutheim: I say, notwithstanding that fact you took out the line from Sour Lake Junction down to Brazier?

Mr. Masterson: We took it out about the time they began to talk about cancelling us out.

Examiner Gutheim: Had the division connection with the Frisco actually been cancelled?

Mr. Masterson: No, sir. I don't think they had, but they had notified us in view of the decision of the Commission, that they were going to.

Examiner Gutheim: What is the nature of Brazier, is there any community there of consequence?

Mr. Masterson: Turpentine camp was built there about the time we entered, but I don't know whether it is still in existence or not. It only amounted to two or three families living at that point.

Examiner Gutheim: So that Brazier as a community probably did not suffer by a discontinuance of the railroad by this company?

Mr. Masterson: No, sir.

5798 Examiner Gutheim: Now, you get no divisions from the Santa Fe?

Mr. Masterson: No, sir, we don't get any.

Examiner Burchmore: Why did you take the road up going out to Brazier?

Mr. Masterson: How is that?

Examiner Burchmore: Why did you take up your rails on the line running down to Brazier?

Mr. Masterson: Just at the time the tap line division was brought about, the Beaumont, Sour Lake & Western addressed us a letter stating that in view of this star grain case that they thought they had better cancel their divisions with us, and we figured that they were going to do so, and about that time the Keith Lumber Company needed some steel to extend their logging spur up about Pelt, also they purchased some additional steel, and we decided to let them take up that steel on that branch.

Examiner Burchmore: Did the railroad sell the lumber company this steel down there then?

Mr. Masterson: No, sir, the railroad owns all the steel and rents it to the lumber company.

Examiner Burchmore: Then the lumber company at the
5799 present time has borrowed that steel from the railroad company?

Mr. Masterson: Yes, sir; rented it really.

Examiner Burchmore: Paying rental for it?

Mr. Masterson: Yes, sir, we charge them a consideration of three dollars per car for hauling the logs in, and $100 per month track rental, for rental of the steels, and we furnish them such steel as they need for operating logging spurs.

Examiner Burchmore: What divisions do you now get if any, from the T. & N. O.?

Mr. Masterson: The T. & N. O. has not given us any for about a year. We originally got from one to three cents from them, the three cents only applying to Mexican points at points on the Colorado Southern west.

Examiner Gutheim: Then as a matter of fact, you are not now getting any divisions at all?

Mr. Masterson: No, sir.

Examiner Gutheim: Neither on lumber nor any other commodity?

Mr. Masterson: No, sir.

Examiner Gutheim: Inbound or outbound?

Mr. Masterson: No, sir.

5800 Examiner Gutheim: What is the distance approximately from your Keith Mills to Voth on the Santa Fe and Voth on the T. & N. O.

Mr. Masterson: Three-quarters of a mile.

Examiner Gutheim: The haul on the finished lumber you say is sometimes made by your power, sometimes by the power of either of those trunk lines?

Mr. Masterson: Yes, sir.

Examiner Gutheim: There is no agreement between the companies as to which shall do it in any particular case?

Mr. Masterson: No, sir.

Examiner Gutheim: They don't come and get it. When you want to get it out, you simply send your locomotives over with it?

Mr. Masterson: That is right.

Examiner Gutheim: Does the Keith Lumber Company conduct any railroad operations itself?

Mr. Masterson: Only logging spurs.

Examiner Gutheim: Do they actually conduct them?

Mr. Masterson: Yes, sir, they own the logging cars, and the locomotives are two that we rent them.

Examiner Gutheim: What is the consideration that they
5801 pay you for that rental?

Mr. Masterson: It is included in that $125.00 per month, and a consideration of $3.00 per car for hauling the logs.

Examiner Gutheim: In addition to furnishing them steel for the logging spurs, does the railroad company, as a part of its operating expenses, lay down these spurs and take them up and move them?

Mr. Masterson: No, sir.

Examiner Gutheim: Who stands that expense?

Mr. Masterson: The Keith Lumber Company.

Examiner Gutheim: Then the $3.00 a car charge that you speak of includes the transportation and also the rent of the locomotives and cars?

Mr. Masterson: That and the consideration of $125.00 per month.

Examiner Gutheim: Can you furnish us with a statement that will show the tonnage that has been handled by the road in the last fiscal year?

Mr. Masterson: Yes, sir.

Examiner Gutheim: Divided up between the business for the logging company and the business for the general public?

Mr. Masterson: Yes, sir.

5802 Examiner Gutheim: And showing the same division on the revenue?

Mr. Masterson: Yes, sir.

Examiner Gutheim: If you will file them as an exhibit in connection with your testimony.

Mr. Masterson: All right.

Examiner Gutheim: If you will read the results of that statement into the record.

Mr. Masterson: Outside public, 750 tons.

Mr. Cowan: What is the revenue?

Mr. Masterson: $257.59. Outbound lumber delivered to the T. & N. O. and Frisco, 4,140 pounds.

Examiner Burchmore: Don't you mean tons instead of pounds?

Mr. Masterson. Tons, yes, sir.

Mr. Cowan: Revenue?

Mr. Masterson: $1,795.90. Logs for Keith Lumber Company, 96,224 tons, $18,288.00. Then switching, $460.00, that is all.

Mr. Coleman: What is that switching for?

Mr. Masterson: That was charged against the Keith Lumber Company for switching—they have shipped a good deal of lumber by water, and the principal part of it was switching cars from

5803 the planer or mill down to their loading docks and the approaches.

Examiner Gutheim: Does the railroad keep separate accounts, Mr. Masterson?

Mr. Masterson: Yes, sir.

Examiner Gutheim: How long has it been doing so?

Mr. Masterson: Since it was organized.

Examiner Gutheim: On a separate set of books of its own?

Mr. Masterson: How is that?

Examiner Gutheim: On a separate set of books of its own?

Mr. Masterson: Yes, sir.

Examiner Gutheim: Is it keeping those accounts in conformity with the classification prescribed by the Interstate Commerce Commission?

Mr. Masterson: Yes, sir.

Examiner Gutheim: Do you make any annual or monthly reports to the Commission?

Mr. Masterson: Yes, sir.

Examiner Gutheim: How long have you been making your annual reports?

Mr. Masterson: Why I presume all the time. I have had about a year and a half, I have helped to make the two last ones.

5804 Examiner Gutheim: You don't know if any were made prior to that time?

Mr. Masterson: No, sir, I am pretty sure there was. We had a man then that attended to the railroad business altogether. I was not familiar with his work though.

Examiner Gutheim: What is the nature of the tonnage of 750 tons that you handled for the general public, Mr. Masterson?

Mr. Masterson: It included merchandise that we had hauled for different individuals on the line, pipe that we had hauled for the oil companies to operate a pipe line out in the neighborhood of Pelt, and a few ties which we would haul out for the Santa Fe Railroad Company.

Examiner Gutheim: Coming out of the tie camps that you speak of?

Mr. Masterson: Yes, sir.

Examiner Gutheim: What revenue do you charge or what rate do you charge on ties compared to the rate that you charge on the logs?

Mr. Masterson: We charge five dollars per car on the ties and three dollars per car on the logs.

Examiner Gutheim: That three dollars per car also carries
5805 along with it the lease, for a nominal consideration, of the locomotives and steel for the spurs?

Mr. Masterson: Yes, sir.

Examiner Burchmore: You spoke of some lumber that moved by water?

Mr. Masterson: Yes, sir.

Examiner Gutheim: What water line handled that lumber?

Mr. Masterson: We loaded it on what we call Pine Island Bayou. It goes down the bayou and empties into the Natchez river, and from the Natchez river to Port Arthur and Sabine, Texas.

Examiner Burchmore: What is the name of the company that handled it?

Mr. Masterson: Handled the water transportation?

Examiner Burchmore: Yes.

Mr. Masterson: The Keith Lumber Company do it, deliver the lumber to Port Arthur, where it is delivered alongside the steamers.

Examiner Burchmore: Does the Gulf Coast Navigation Company operate up in that water?

Mr. Masterson: Why, I am not sure. You might ask Mr. Keith that. He says they do not.

5806 Examiner Burchmore: Who owns that pipe line?

Mr. Masterson: The Gulf Line Pipe Company.

Examiner Burchmore: Have you any contract between your railroad and any other railroad?

Mr. Masterson: No, sir.

Examiner Burchmore: Any contract between your railroad company and the Keith Lumber Company?

Mr. Masterson: Agreement for hauling the logs and pay rent for the locomotives and rails.

Examiner Burchmore: Is that reduced to writing?

Mr. Masterson: We have the contract written, but I do not know that it has ever been properly executed, but we filed a local notice covering the shipment of logs, which we post, and that includes the cost of transporting the logs and the $125 per month would include the rental of the steel and locomotives.

Examiner Burchmore: This written contract that you think may not have been executed, does it accurately describe the actual operations between the two companies?

Mr. Masterson: I think I wrote it up, and I simply stated that in consideration of three dollars per car, the Keith Lumber Company should pay to the railroad—they agreed to haul the
5807 logs from any point on their line into the mill, and then for the $125 per month to give them the right to pass the caboose over the main line of the railroad, and the use of the two locomotives.

Mr. Garwood: Just one or two questions, your Honor. How far is the town of Batson from your present terminus of Pelt, just approximately?

Mr. Masterson: Seventeen miles, if I remember.

Mr. Garwood: Is it the purpose of this line to extend there?

Mr. Masterson: It is.

Mr. Garwood: Has a survey been made?

Mr. Masterson: Yes, sir.

Mr. Garwood: What sort of a place is Batson and what are the industries that are there?

Mr. Masterson: It is a town of about twenty-five hundred inhabitants, consists of one saw mill of about ten thousand feet per day capacity.

Mr. Garwood: Any oil wells located there?

Mr. Masterson: Yes, sir.

Mr. Garwood: How many?

Mr. Masterson: Two hundred and fifty was the report our
5808 engineer gave us.

Mr. Garwood: I would ask you if the oil production there is very large?

Mr. Masterson: Yes, sir, we have a summary of the productions—not the tonnage, but the oil productions for the year 1910, as 1,206,213 barrels.

Mr. Garwood: In other words, it is a large oil producing territory there, and it is your purpose to go over there in the near future: you have had your survey already made through there?

Mr. Masterson: Yes, sir.

Mr. Garwood: It is a town of considerable commercial importance by reason of the oil development there?

Mr. Masterson: Yes, sir, and no other railroad reaches the place, either.

Mr. Garwood: It now has no railroad facilities?

Mr. Masterson: No, sir.

Mr. Garwood: You stated that you had some 35 pound rails. Were you not in error about that, Mr. Masterson?

Mr. Masterson: It might be 35 pounds. That steel is being used by the Keith Lumber Company in their logging spurs, but I show them as the property of the railroad, and the quan-
5809 tities that I gave included all that was being used by the Keith Lumber Company.

Mr. Garwood: Will you please file the financial statement—have you it? Can you not attach it there and file it with the stenographer as Exhibit No. 1?

Mr. Masterson: I have filed "Masterson No. 1."

Mr. Garwood: File your financial statement as Exhibit No. 2.

Mr. Masterson: Yes, sir.

Mr. Garwood: That includes your tonnage?

Mr. Masterson: I have one that includes our tonnage.

Mr. Garwood: Make a separate exhibit of that and file it.

Mr. Masterson: All right.

(The analysis of earnings of Beaumont & Saratoga Transportation Company so offered and identified, was received in evidence and thereupon marked "Masterson Exhibit No. 2, received in evidence January 26, 1911," and is attached hereto.)

(The statement of tonnage and earnings so offered and identified was received in evidence and thereupon marked "Masterson Exhibit No. 3, received in evidence January 26, 1911", and is attached hereto.)

5810 Mr. Gutheim: Mr. Masterson, how long ago was this survey through Batson completed?

Mr. Masterson: We have had two surveys made, and the last one was completed the latter part of 1910, that makes the second survey.

Mr. Gutheim: You have never built this railroad any further from time to time, but it was needed for the logging purposes of the Keith Lumber Company?

Mr. Masterson: No, sir, we have not.

Mr. Gutheim: As a matter of fact, are there any oil refineries in Batson, or are they just taking out crude oil and piping it?

Mr. Masterson: Taking out crude oil.

Mr. Gutheim: Where is it refined?

Mr. Masterson: Beaumont, I think.

Mr. Gutheim: It is piped to Beaumont, I think, isn't it?

Mr. Masterson: Yes, sir.

Mr. Coleman: You said you did not get any intrastate divisions?

Mr. Masterson: No, sir.

Mr. Coleman: I suppose that means you were not ever recognized by the Texas Commission?

5811 Mr. Masterson: No, sir, we were not.

Mr. Coleman: You were not?

Mr. Masterson: No, sir.

Mr. Coleman: The three dollars switching charge where it is for water haul, does anybody absorb that switching?

Mr. Masterson: The railroad charges it to the lumber company.

Mr. Coleman: I know, but then does anybody absorb, any other carrier absorb that switching?

Mr. Masterson: No, sir, when it is switched from the Keith Lumber Company's mill, it is put on barges and carried away by water.

Examiner Gutheim: Those barges belong to the Keith people?

Mr. Masterson: It is a water shipment.

Mr. Coleman: What is the purpose of the three dollar switching charge? Why do you make that exception?

Mr. Masterson: Five dollars.

Mr. Coleman: Five dollars, why do you make that exception?

Mr. Masterson: That is what the railroad company charges against the lumber company for switching their cars down
5812 there to the wharf to load into barges.

Mr. Coleman: But is that a longer haul than when you interchange with the railroads?

Mr. Masterson: Well, practically the same.

Mr. Coleman: Why do you make the charge in one case and not make it in the other?

Mr. Masterson: The railroad charge of switching?

Mr. Coleman: Yes, sir.

Mr. Masterson: I don't know whether the railroad company would charge it or not. You know, they come in and get about as many cars—about as many as they carry out themselves, but charging a part of the switching charges.

Mr. Coleman: But you are charging the Keith Lumber Company a switching charge in one instance and not doing it in others?

Mr. Masterson: Yes, sir.

Mr. Coleman: Have you told us the real reason for that?

Mr. Masterson: Well, you see when we make a shipment of lumber out and do that switching, there are some of those cars that we would receive divisions from the railroads, and the railroad would possibly set out the cars that we would receive a division on, and the Beaumont & Saratoga Transportation Company would
5813 set out the cars that they did not receive any division on, and we counted it as an off-set between the railroads for doing that switching.

Mr. Coleman: Did you ever make application to the Commission for recognition as a carrier?

Mr. Masterson: The State Commission?

Mr. Coleman: Yes.

Mr. Masterson: I don't think we have.

Mr. Coleman: Why not?

Mr. Garwood: Your Honor, I just said a moment ago that this road is not incorporated under the general railroad statute, that it is incorporated merely as a transportation company under the gen-

eral corporation statute as a carrier of goods, wares and merchandise.

Exminer Burchmore: I think that covers the point.

Mr. Coleman: That is all.

Mr. Garwood: I would like, your Honor, to file the report of the engineer on the Batson proposition, where we expect to grade.

Examiner Burchmore: It may be received.

(The statement so offered and identified was received in evidence and thereupon marked "Masterson Exhibit No. 4, received in evidence January 26, 1911", and is attached hereto.)

5814 Cross-examination:

Mr. Cowan: Mr. Masterson, do you know the genesis of this corporation, this transportation company?

Mr. Masterson: No, sir, I was not with them when they first organized and commenced operations.

Mr. Cowan: When did you begin with them?

Mr. Masterson: I became connected with the railroad a little over a year ago. Mr. Keith is here and he could testify about the organization of it, Mr. Cowan.

Mr. Cowan: Who employed you?

Mr. Masterson: I worked in that capacity, for the railroad and the Keith Lumber Company.

Mr. Cowan: I want the individual who employed you.

Mr. Masterson: Mr. Keith.

Mr. Cowan: Isn't Mr. Keith the president of both companies?

Mr. Masterson: He is vice-president of the railroad and president of the Keith Lumber Company.

Mr. Cowan: Who is president of the railroad.

Mr. Masterson: B. R. Norval.

Mr. Cowan: He is also connected with the Keith Lumber Company?

5815 Mr. Masterson: Yes, sir.

Mr. Cowan: Were you there when this prior arrangement was made about that switching?

Mr. Masterson: No, sir, it was in effect when I went there.

Mr. Cowan: You found that?

Mr. Masterson: Yes, sir.

Mr. Cowan: You didn't know anything about how that happened?

Mr. Masterson: No, sir; I presume it was just an agreement between the railroad company and the lumber company.

Mr. Cowan: You presume that, but your presumption may be in error?

Mr. Masterson: I couldn't hardly say that, I would not be—I don't know; I was not there at the time it was organized.

Mr. Cowan: You know the railroad company and the lumber company are practically the same?

Mr. Masterson: Yes, sir, practically the same. I expect the same employees possibly, serve both companies, unless it was the superintendent of the railroad.

Mr. Cowan: Has the railroad company made any money?

Mr. Masterson: It has not showed any profits yet.

5816 Mr. Cowan: What is the object of operating it?

Mr. Masterson: The object of the railroad is to extend on into Batson.

Mr. Cowan: If it is not making any money, what do they want to extend there for?

Mr. Masterson: We figure that we will make some money when we get into that town.

Mr. Cowan: Doing what?

Mr. Masterson: Hauling out merchandise and possibly incorporate there as a carrier of passengers and such as that.

Mr. Cowan: How far would it be to extend the road to Batson?

Mr. Masterson: I think it is seventeen miles, sixteen or seventeen?

Mr. Cowan: Any railroad in the vicinity of Batson?

Mr. Masterson: No, sir, none reaching Batson.

Mr. Cowan: How near?

Mr. Masterson: I believe eight miles. The Saratoga appears to be the closest.

Mr. Cowan: What railroad is that?

Mr. Masterson: How is that?

Mr. Cowan: What railroads are those?

5817 Mr. Masterson: At Saratoga, the Santa Fe only.

Mr. Cowan: The Santa Fe is a rather enterprising company.

Mr. Masterson: I don't know whether they are making any money out of Batson or not—out of Saratoga.

Mr. Cowan: It is a rather enterprising company, the Santa Fe Railroad?

Mr. Masterson: I would not be able to answer that.

Mr. Cowan: They probably have got as good arrangements for building railroads as you have.

Mr. Garwood: You can take that as admitted on the record.

Mr. Cowan: But they have not built to Batson.

Mr. Masterson: No, sir.

Examiner Burchmore: That would be a branch line of the Santa Fe to Batson, and this line would have a main line in there.

Mr. Cowan: I will let him make that argument. The Santa Fe have not seen fit to build into Batson?

Mr. Masterson: Not that I know of.

Mr. Cowan: And you have not seen fit to build into Batson?

Mr. Masterson: We are headed that way now.

Mr. Cowan: For how long have you been headed that way?

Mr. Masterson: For five years, but we are getting at it in earnest now.

5818 Mr. Cowan: Have you ever consulted with Mr. Carlisle, in regard to expense?

Mr. Masterson: No, sir, it might be if he would interchange here, we would.

Mr. Cowan: You have been showing a deficit in the operation.

Mr. Masterson: On the interest on our indebtedness which we propose to pay to the Keith Lumber Company if we should earn it.

Examiner Burchmore: I want to ask if you build into Batson, do you expect to go beyond that point?

Mr. Masterson: Yes, sir, that is the intention.

Examiner Burchmore: You would then parallel the——

Mr. Masterson: That is the Riverside & Gulf.

Examiner Burchmore: You would parallel the county line?

Mr. Cowan: Now, Mr. Masterson, of course you are testifying under oath.

Mr. Masterson: Yes.

Mr. Cowan: Do you conscientiously state—you say you expect to extend to Batson, do you conscientiously state the fact that
5819 you absolutely intend—when I say you, I mean the people who put money into this property—actually intend to construct this line on to Batson?

Mr. Masterson: Well, I would rather have Mr. Keith to testify to that, because he is the man who is behind the enterprise.

Mr. Cowan: I wanted to see if Mr. Masterson knew that.

Mr. Masterson: That is the information he has given me, and I have reason to believe it.

Mr. Cowan: How much experience have you had in railroad operation?

Mr. Masterson: I have not had very much.

Mr. Cowan: Is it your opinion—you are testifying now—is it your opinion that the extending of this line to Batson would pay any reasonable interest on the amount of money necessary to build that road?

Mr. Masterson: Yes, sir, according to our calculations it would be a good investment.

Mr. Cowan: How much would it cost to build it?

Mr. Masterson: We figure, $7,500 per mile.

Mr. Cowan: Seventeen miles?

Mr. Masterson: Yes, sir.

Mr. Cowan: How much traffic do you think you would get?

5820 Mr. Masterson: We got it figured up about very near $10,000 per month.

Mr. Cowan: How do you get that amount?

Mr. Masterson: We got it itemized here according to the report of the engineer.

Mr. Cowan: $120,000 a year?

Mr. Masterson: Yes, sir.

Mr. Cowan: That being a guess, who figured that?

Mr. Masterson: Mr. Milliken, he gave us the figures, and we figured it out.

Mr. Cowan: You say "he gave us". Gave who, you and Mr. Keith?

Mr. Masterson: Yes, sir.

Mr. Cowan: Your present track has been built five years?

Mr. Masterson: No, sir, it was started two miles about five years ago and we have constructed ten miles in five years.

Mr. Cowan: I thought you said you had been trying to go on five years.

Mr. Masterson: No, I did not.

Mr. Cowan: The traffic on the present line has declined very much over previous years?

5821 Mr. Masterson: The traffic you say has declined?

Mr. Cowan: Yes, that is my understanding.

Mr. Masterson: No, sir, it has increased.

Mr. Cowan: 1910 shows an increase?

Mr. Masterson: Over 1909.

Mr. Cowan: Of what, traffic?

Mr. Masterson: Yes, sir.

Mr. Cowan: What sort of traffic?

Mr. Masterson: The principal item was the logs it hauled for the lumber company.

Mr. Cowan: But of course that would be cut out in time?

Mr. Masterson: Several years, yes.

Mr. Cowan: I notice that in the figures you gave 750 tons of merchandise for which you get $257.

Mr. Masterson: That was on our outside business.

Mr. Cowan: Outside business?

Mr. Masterson: Yes, sir.

Mr. Cowan: But the Keith Lumber Company is an outside corporation as far as Batson is concerned. They are not located at Batson, they have no business there?

Mr. Masterson: No, sir, they are not at present.

Mr. Cowan: If you own eight miles of road and you only

5822 get 750 tons at $257, how do you expect to maintain a railroad on any such returns as that?

Mr. Masterson: We expect to come into Batson where the tonnage and revenue is bound to be increased on account of the size of the place.

Examiner Burchmore: Judge Cowan, I think you would ascertain this possibly by asking him to state exactly what size tonnage he figures on getting.

Mr. Cowan: Answer that question.

Mr. Masterson: When we get into Batson we figure on getting in and outbound merchandise.

Examiner Burchmore: From where to where?

Mr. Masterson: From Batson to Voth. Of course from Voth we will get and deliver to the trunk lines $2,775.75.

Mr. Cowan: I want to get the tons.

Mr. Masterson: We have not got any tons figured out. It is in pounds.

Examiner Burchmore: What are your pounds?

Mr. Masterson: 2,775,750.

Mr. Cowan: 2,775,750?

Mr. Masterson: Yes, sir.

Mr. Cowan: What do you figure you can get a ton on that?

5823 Mr. Masterson: We have it figured here 10 cents per hundred.

Mr. Cowan: How is that?

Mr. Masterson: We have it figured here 10 cents per hundred.

Mr. Cowan: How much would that be a ton?

Mr. Masterson: That would be about one-half.

Examiner Burchmore: You mean five cents a hundred pounds, don't you?

Mr. Masterson: Ten cents a hundred.

Mr. Cowan: Ten cents a ton or a hundred?

Examiner Burchmore: Don't you mean a dollar a ton?

Mr. Masterson: Well, yes, we did figure that.

Mr. Cowan: He said a hundred.

Mr. Masterson: A hundred pounds, ten cents a hundred pounds, that would be $2 00 per ton.

Mr. Cowan: Why do you figure that when you are hauling 750 tons on your line as it is today, a short line haul, and you are getting only 34 cents a ton? Who made those figures?

Mr. Masterson: Getting how much?

Mr. Cowan: 34 cents a ton.

5824 Mr. Masterson: Well, you see this last figure I gave you was counting the merchandise mostly, local freight.

Mr. Cowan: One for the other?

Mr. Masterson: That included some carload shipments such as iron pipes for the pipe line company.

Mr. Cowan: Don't you suppose you would have to handle a lot of iron pipes out of Batson?

Mr. Masterson: Not locally very much.

Examiner Burchmore: I doubt very much whether it would serve a useful service to analyze those figures that he says are an engineer's estimate, as I understood him.

Mr. Cowan: Is there any prospect of this railroad being built?

Mr. Masterson: There have been some steps taken lately that looks very much like it is going to be built to me.

Mr. Cowan: Without this railroad the Keith Lumber Company could not operate to Batson?

Mr. Masterson: You say the Keith Lumber Company could not operate to Batson?

Mr. Cowan: Yes, could not operate its business without this railroad.

Mr. Masterson: No, sir; the Keith Lumber Company could not reach it from Voth.

5825 Mr. Cowan: They would have to have this railroad in order to operate?

Mr. Masterson: Yes, sir.

Mr. Cowan: That is all.

Examiner Burchmore: That is all.

Mr. Garwood: Mr. Keith is here. The nature and operations of the road have been very well covered but he is here to answer any questions.

J. F. KEITH was called as a witness herein, and having been duly sworn, testified as follows:

Direct examination:

Mr. Garwood: Mr. Keith, you heard the questions propounded to Mr. Masterson as to your intention to extend to Batson. I will ask you if that is your intention, whether you have had it surveyed, and if so, the nature and character of the development at Batson?

Mr. Keith: Have made the surveys, yes.

Mr. Garwood: Is it your intention to extend there?

Mr. Keith: Yes, sir.

Mr. Garwood: What is the character of the business that you expect to get at Batson, what is the character of the commu-
5826 nity, its population and so forth. State it.

Mr. Keith: At first I will say that I would like to correct the statement that Mr. Masterson made, in reference to that rail. We have 25 miles of rail, and all of the light 35 pound rails we loan to the Keith Lumber Company. The present track from Funston on the Santa Fe to Felt is all new 40 pound or 50 pound rail. There is not a light rail in that track any lighter than 40 pounds.

We have had a survey made to Batson, and an estimate of the cost and financial arrangement practically made to build it in there. I don't remember just what the total was, but we have had a man there checking it up for two or three months. We figured at the rate of 10 cents per 100 pounds, because it is costing the people 25 cents per 100 now to haul it in by wagon, and I might state further that we have had a survey made and expect to extend the road further than Batson or to a connection with the Riverside & Gulf, where we are promised a good deal of tonnage if we do that. We have a statement of tonnage here that we have hauled and what we expect.

Mr. Garwood: How much of a place is Batson and what is the character of the business that is done there?

5827 Mr. Keith: Well, Batson has got 23 stores. They produced the last two months of last year 105,000 barrels of oil each month, most of which is now piped away. We figured on getting about 5 per cent of that amount to go by rail.

Mr. Garwood: That is all I care to ask.

Cross-examination:

Mr. Cowan: Why do you expect to get 5 per cent of the oil shipments?

Mr. Keith: Well, from inquiries among the purchasing oil companies, with something like two hundred and fifty producing companies, they are nearly all owned by one concern, and they want facilities so that they can sell it as fuel, ship it out, but as it is now they are compelled to give it to the pipe line.

Mr. Cowan: I suppose if they had to buy it, it would go by the pipe line.

Mr. Keith: How is that?

Mr. Cowan: You say that they are shipping it by the pipe line now.

Mr. Keith: Yes, sir.

Mr. Cowan: Don't you suppose the pipe line can haul it cheaper than you can?

5828 Mr. Keith: As it is now, the producing company has to accept the price the pipe line will give it, it is not optional with it, they have to pipe it out.

Mr. Cowan: You have no contract with them to give you any percentage of this oil?

Mr. Keith: I have got the promises of some, which I believe in their word.

Mr. Cowan: As long as you hauled cheaper?

Mr. Keith: How is that?

Mr. Cowan: As long as you haul it cheaper.

Mr. Keith: No, they think they can get a better price for it.

Examiner Burchmore: You are an officer of the Keith Lumber Company?

Mr. Keith: Yes, sir.

Examiner Burchmore: What is your relation to that company?

Mr. Keith: I am president.

Examiner Burchmore: Do you control the company?

Mr. Keith: Yes, sir.

Examiner Burchmore: You are president of this railroad?

Mr. Keith: No, sir, I am vice-president of the railroad.

5829 Examiner Burchmore: What is your stock holding in that railroad?

Mr. Keith: Well, the ownership of the Keith Lumber Company and the railroad is the same. Well, practically the same.

Examiner Burchmore: Does the Keith Lumber Company or its mill labor under any disadvantage with other mills in Texas which are located on short lines of railroad that do receive allowances in selling your lumber in the market?

Mr. Keith: I cannot say that we do.

Examiner Burchmore: Is that mill just as well off as it was when the railroad formerly had joint rates?

Mr. Keith: The mill?

Examiner Burchmore: Yes.

Mr. Keith: The mill itself, yes. We do not look upon the divisions we get out of the railroad as any benefit, but I will tell you, we have an investment there now of $124,000 in that railroad, in the railroad itself, and of course if there is nothing done with it when we get through logging that timber out of there, it is practically a loss, so we have gone to a good deal of expense to build that better than a tram road. It is a standard gauge line, put up as

5830 well as a road can be put up, with a broad right of way about 100 feet wide through the woods. We have built it out there with a view of extending it on and making a railroad of it.

Examiner Burchmore: Is it a common carrier under the State Law of Texas?

Mr. Keith: Yes, sir.

Examiner Burchmore: I understood it was not a railroad corporation under the laws of Texas.

Mr. Keith: The Company at the time we incorporated, our attorney told us that we would be just as well to incorporate under this special transportation Act.

Examiner Burchmore: It is a common carrier?

Mr. Keith: A common carrier, yes, sir, we carry goods for other than the Keith Lumber Company.

Examiner Burchmore: I did not mean whether it was a common carrier. I asked if it was under the state laws of Texas.

Mr. Garwood: That is a mooted question.

Examiner Burchmore: You heard Mr. Masterson's testimony?

Mr. Keith: Yes, sir.

Examiner Burchmore: Was it correct in every respect, as
5831 you understood it except in the respect to the steel rails?

Mr. Keith: Practically so, yes, sir; not in every particular, because Mr. Masterson does not know all about the actual operation. He is an office man. For instance, in one particular there he stated that they had been a corporation for five years. Well, we incorporated that road in 1906. You see that would only be about four years.

Examiner Burchmore: Well, that is near enough.

Mr. Keith: Yes, sir. I thought it was, too, but it is in a way correct, yes, sir.

Mr. Cowan: Mr. Keith, if the Commission in this case would agree to recognize your railroad as a common carrier, would you agree to build on to Batson?

Mr. Keith: Yes, sir, I would enter into a contract to do it.

Mr. Cowan: If you built it on to Batson and it thereafter became a common carrier, because it has no other purpose than that, don't you know that they would be bound to recognize it as a common carrier?

Mr. Keith: I think we will build it whether they do or not, but we would like to have the divisions to help it. It is a hard matter to finance it if you have got the Commission against you
5832 on that.

Mr. Cowan: How long will your timber last?

Mr. Keith: Well, we have about ten years' run. We cut about 25,000,000 a year and we have 225,000,000.

5833 Mr. Cowan: Who was the agreement made with by the railroad company charging the Keith Lumber Company five dollars a car?

Mr. Keith: Well, it was just a charge that we made for the service which they did switching cars.

Mr. Cowan: But you know the Keith Lumber Company and the railroad company are two separate identities?

Mr. Keith: Yes, sir.

Mr. Cowan: Who did the railroad company make the contract with to charge the lumber company five dollars a car? Wasn't that what Mr. Masterson said?

Mr. Keith: Yes, sir, those are the switching charges.

Mr. Cowan: I am trying to find out who the railroad company made such a contract with, what individual did it.

Mr. Keith: Well, I gave orders to charge that much and the Keith Lumber Company had to pay it. We don't switch for anybody else but them.

Mr. Cowan: You are the president of the lumber company?

Mr. Keith: Yes, sir.

Examiner Burchmore: I think that is a sufficient answer, Judge Cowan.

Mr. Cowan: I think it might be pertinent to inquire
5834 whether he did it as President of the Lumber Company or Vice-President of the Railroad Company.

Examiner Burchmore: Who gave these different orders to the subordinates in the railroad company?

Mr. Keith: We have a railroad superintendent who does nothing else but look after the railroad. Of course he does what I say, and he charges the Keith Lumber Company a fixed charge.

Examiner Burchmore: Which did you do it for?

Mr. Keith: I fixed the charge for the railroad company to charge and agreed to pay it for the Keith Lumber Company. It is practically the same ownership.

Examiner Burchmore: That is the answer you will want to make?

Mr. Keith: Yes, sir.

Examiner Burchmore: What was the use of that, what purpose did it serve?

Mr. Keith: It was to get revenue, to produce revenue. We could not afford to run the railroad for nothing. They do switching for others besides the Keith Lumber Company.

Examiner Burchmore: Where did you switch from and where to?

Mr. Keith: Well all about. We would switch cars out of
5835 the planer and mill up to the assembling track, and then as Mr. Masterson said, from the mill and planer around to those barges where we load for export, and then we switch hewn ties and piling in and out on the road for all of which we have a fixed charge of five dollars.

Examiner Burchmore: Do you publish tariffs?

Mr. Keith: Well, we do not publish it, we post it, keep it posted.

Examiner Burchmore: For whom?

Mr. Keith: Sir?

Examiner Burchmore: For whose observation?

Mr. Keith: Well, for the public.

Examiner Burchmore: Does the public pay anything down there?

Mr. Keith: How is that?

Examiner Burchmore: Does the public pay any switching charges?

Mr. Keith: Some.

Examiner Burchmore: How many cars?

Mr. Keith: How many?

Mr. Burchmore: Yes, how many in a year, say?

Mr. Keith: Well, the statement here will show, that total statement would cover.

Examiner Gutheim: About 6,295 handled, according to that statement.

5836 Examiner Burchmore: All for the Keith Lumber Company?

Mr. Keith: No, it was not all for the Keith Lumber Company. We switched some for the Santa Fe, some for the Gulf Pipe Line Company, and, I think some for the individuals that got out piling and ties on that line.

Mr. Cowan: Who owns the Gulf Pipe Line Company?

Mr. Keith: I think Mellen in Pittsburg.

Examiner Burchmore: Do you make that switching charge when you are switching to a railroad?

Mr. Keith: To a railroad?

Examiner Burchmore: Yes.

Mr. Keith: Yes, sir—do you mean switching out for the other railroads?

Examiner Burchmore: Yes.

Mr. Keith: Oh, no, they don't pay any switching, the Keith Lumber Company pays for the switching going out to the roads.

Examiner Burchmore: Suppose anybody else had a car switched out to a railroad, would you charge them for it?

Mr. Keith: Yes, sir, we charge for it.

Examiner Burchmore: Do you have any such cars?

Mr. Keith: Yes, sir.

Examiner Burchmore: Consisting of what?

5837 Mr. Keith: What is that?

Examiner Burchmore: Consisting of what?

Mr. Keith: Occasionally a car of feed, hewn ties, piling.

Mr. Burchmore: Do you get a division of the rates?

Mr. Keith: Iron pipe—no, don't get any division rate.

Examiner Burchmore: Then does the railroad company to whom you switch it, absorb that switching charge?

Mr. Keith: No, sir.

Examiner Burchmore: Does anybody absorb it in case you switch the car?

Mr. Keith: The owner of the stuff pays it.

Examiner Burchmore: What do you mean by that?

Mr. Keith: What is that?

Examiner Burchmore: Just what do you mean by that? You say the owner of the stuff pays it.

Mr. Keith: For instance, if the Gulf Pipe Line Company there wants some pipe switched out along their line, we charge them that tariff on it, the switching charge, and they pay it.

Examiner Burchmore: When you switch lumber down to the barges, does anybody absorb it?

Mr. Keith: The Keith Lumber Company pays it.

5838 Examiner Burchmore: Any of the transportation charges, would the transportation company absorb it?

Mr. Keith: No, sir.

Examiner Burchmore: That is all.

Mr. Coleman: You made the remark that when the railroad commission is against you, it is hard to finance a road.

Mr. Keith: Yes, sir.

Mr. Coleman: Did you apply to them?
Mr. Keith: Apply to whom?
Examiner Burchmore: He said that he did not. Mr. Masterson said——
Mr. Coleman: He said he did not know.
Mr. Keith: No, we have not applied to the state yet for recognition.
Mr. Coleman: So far as you know, if you apply, you can get it, if that is done?
Mr. Keith: It is our intention to apply, yes.
Mr. Coleman: Now you said there was about 105,000 barrels of oil shipped out of Batson produced every month?
Mr. Keith: Yes, sir.
Mr. Coleman: And you could get about five per cent?
Mr. Keith: In November and December—yes.
5839 Mr. Coleman: What would five per cent of that be?
Mr. Keith: You could figure it as near as I can. I have got the statement here, I have got it figured here.
Mr. Coleman: How much would that weigh?
Mr. Keith: I will tell you, our outbound oil shipments for 1910, by pipe line, was 1,206,213 barrels. We figured on 5 per cent of that which would be 5,025 barrels per month.
Mr. Coleman: How many pounds is it?
Mr. Keith: About 1,206,213 barrels.
Mr. Coleman: In your 5,000 barrels?
Mr. Keith: 5,025 barrels.
Mr. Coleman: How much would that weigh?
Mr. Keith: 1,206,213 pounds.
Mr. Coleman: 5,000 barrels would weigh 1,000,000 pounds?
Mr. Keith: 1,206,213 pounds.
Examiner Burchmore: Twenty pounds to the barrel.
Mr. Coleman: Twenty pounds to the barrel?
Examiner Burchmore: Two hundred pounds to the barrel, isn't it?
Mr. Hershey: Two hundred and seventy pounds.
Mr. Keith: That is right. I thought it was right, about
5840 300 pounds to the barrel.
Mr. Coleman: The Texas common point rate is about 10½ cents?
Mr. Keith: I don't know.
Mr. Coleman: Have you figured your revenue from that road without knowing what the rate on oil would be?
Mr. Keith: I know what I would charge to haul it, from Batson to a connecting line.
Mr. Coleman: You would have to accept a division of the Texas rate or a proportion, wouldn't you?
Mr. Keith: Well, I might to a point beyond, yes, sir, I expect so.
Mr. Coleman: This is not going to stop at the town of Voth, is it?
Mr. Keith: Oh, no.

Mr. Coleman: It would go off the line and go to other territory?
Mr. Keith: Yes, sir.
Mr. Coleman: And you would only get a division of 10½ cents?
Mr. Keith: I figure on 5 cents a hundred.
Mr. Coleman: You would figure on getting one-half of the
5841 rate?
Mr. Keith: Yes.
Mr. Coleman: Judge Cowan suggests——
Examiner Burchmore: How did you manage to get that? If the rate is 10½ cents, how can you get 5 cents out of it? If you should make a joint rate and agree on divisions, you would have to accept settlement on the basis of proportion?
Mr. Keith: You understand that these figures are estimated. I am not very well up on rates, but I have been told that I could get five cents a hundred by building in there and I believe I can.
Examiner Burchmore: You had better inquire of the man who made the estimate. Did any railroad man tell you that?
Mr. Keith: No, no railroad man.
Mr. Coleman: Suppose you got five cents a hundred pounds on oil, that would only, as I have figured it, amount to $803.00 a month?
Mr. Keith: $603.00 we got it.
Mr. Coleman: Do you figure you could maintain those eleven additional miles—seventeen miles of railroad to do all that hauling for $603.00 a month?
Mr. Keith: No, señor, but there is a lot of other business
5842 here. I have got other tonnage here, if you want to hear it.
Examiner Burchmore: That is in the record.
Mr. Keith: Yes, that is in the record.
Mr. Coleman: That is all.
Mr. Garwood: Anything you want to ask, Mr. Keith?
Mr. Keith: No, I don't believe there is.

5843 *Poplar Bluff & Dan River Railroad Company.*

Mr. Garwood: With reference to this road I wish to say, your Honor, that Mr. Ruth, the representative of this road, is here, but I ascertain on inquiry that he has not filed his reports with the Commission, and he does not care to appear, but he is here subject to the orders of the Commission. If the Commission wish to put him on, they may do so, but personally he does not care to.
Examiner Burchmore: May I ask what the meaning of his indifference to this proceeding is?
Mr. Garwood: He is not indifferent to it, your Honor. He has not had the benefit of counsel in the method of conducting his operations and has not filed his reports with the Commission, and for that reason he does not care personally to go on the stand unless it is the desire of the Commission. If the Commission wish to make any inquiries of him, he is of course here ready to respond.
Examiner Burchmore: Is it your understanding that he proposes

or desires to continue to participate in joint rate transportation in connection with other interstate carriers?

Mr. Garwood: I suppose that it would be his purpose to
5844 await the further action of the Commission in the matter. My belief is, from the statements that he has made, that the probabilities are that after he has taken counsel with his legal counsel, that such concurrences as he has given will doubtless be withdrawn, but that is a matter for him to further determine. I would not undertake to speak for him.

Examiner Burchmore: Mr. Jeffery, our information is that this Poplar Bluff & Dan River Railway is a connection of the Iron Mountain. I wonder if there is any information that you could give us in a general way with respect to that company, or any statement that you could make to enlighten us at all.

Mr. Jeffery: Except that on February 28, 1906, Mr. Burnett, then assistant general freight agent, wrote to Mr. J. C. Lincoln, assistant freight traffic manager, that he, Mr. Burnett, had talked with Mr. Ruth about Mr. Ruth's railroad and that Mr. Ruth convinced him that it was a common carrier in all senses of the word, and he recommended that divisions be allowed to it on lumber. On March 2, 1906, Mr. Lincoln wrote to Mr. Burnett, authorizing him allowonces of two cents and three cents, and on March 5, 1906, Mr.
5845 Burnett instructed Mr. Rausch, who was then the chief rate clerk, to make a local rate of two cents higher than the junction point rate and allow a division of four cents. Mr. Burnett, I may say, died about a year ago, and Mr. Lincoln left the service of the company a couple of years ago, but from correspondence that we have been able to find on the subject, evidently at the time they were satisfied it was a common carrier.

Mr. Garwood: It was really chartered, my understanding is, as a common carrier in its charter.

Examiner Burchmore: I think we shall have to require Mr. Ruth to take the stand.

Mr. Garwood: Very well.

H. I. RUTH was called as a witness, and having been duly sworn, testified as follows:

Direct examination:

Examiner Burchmore: Mr. Ruth, when was the Poplar Bluff & Dan River Railroad Company incorporated?

Mr. Ruth: In February, 1906.

Examiner Burchmore: Do you know when the line was built?

5846 Mr. Ruth: No, sir, I do not.

Examiner Burchmore: Previous to that time?

Mr. Ruth: Yes, sir.

Examiner Burchmore: How much previous to that?

Mr. Ruth: Six or eight years, I suppose.

Examiner Burchmore: You are interested in the Hargrove-Ruth Lumber Company?

Mr. Ruth: Yes, sir.
Examiner Burchmore: What is your relation to that Company?
Mr. Ruth: I am president and treasurer of the company.
Examiner Burchmore: Is that a corporation?
Mr. Ruth: Yes, sir.
Examiner Burchmore: What is the extent of your interest in that company?
Mr. Ruth: I own sixty per cent of the stock.
Examiner Burchmore: In whose hands is the balance of the lumber company's stock?
Mr. Ruth: It is in the hands of two other stockholders, H. V. Mingo and C. H. Hargrove.
Examiner Burchmore: What is the extent of your ownership of stock in this railroad?
5847 Mr. Ruth: I own all but four shares of the stock.
Examiner Burchmore: And those four shares are in the hands of the directors?
Mr. Ruth: Yes, sir, Mr. Mingo.
Examiner Burchmore: Where is the mill of the Hargrove & Ruth Lumber Company located with reference to this line?
Mr. Ruth: By the side of the line.
Examiner Burchmore: This railroad connects with the Iron Mountain at Poplar Bluff, Missouri?
Mr. Ruth: Yes, sir.
Examiner Burchmore: In what direction does it extend from that point?
Mr. Ruth: South of it.
Examiner Burchmore: Poplar Bluff is one end of the line, isn't it?
Mr. Ruth: Yes, sir.
Examiner Burchmore: What is the length of the line?
Mr. Ruth: We own and operate twenty-two miles.
Examiner Burchmore: How long have you been operating that length of road?
Mr. Ruth: About a year, I think.
Examiner Burchmore: Previous to that time what was
5848 your length?
Mr. Ruth: It has been lengthened out from time to time.
Examiner Burchmore: Have you been taking up tracks and laying them in other places?
Mr. Ruth: Yes, sir, part of that spur track.
Examiner Burchmore: Were there any spur tracks that connect with this railroad that are not owned or operated by this railroad company?
Mr. Ruth: No, sir.
Examiner Burchmore: The Hargrove-Ruth Lumber Company has no logging spurs?
Mr. Ruth: No, sir.
Examiner Burchmore: It has no locomotives or cars?
Mr. Ruth: No, sir.

Examiner Burchmore: How many locomotives has this railroad?
Mr. Ruth: Two.
Examiner Burchmore: How many cars?
Mr. Ruth: Six, I think.
Examiner Burchmore: This is a narrow gauge road?
Mr. Ruth: Yes, sir.
Examiner Burchmore: Are you contemplating widening it?
5849 Mr. Ruth: We have not, no, sir.
Examiner Burchmore: Is there a mill at Poplar Bluff?
Mr. Ruth: Yes, sir.
Examiner Burchmore: How near to the right-of-way of the Iron Mountain railroad?
Mr. Ruth: The Iron Mountain has a spur track into the mill.
Examiner Burchmore: And the lumber that is manufactured in that mill is, as a matter of fact, loaded directly from the mill onto the cars of the Iron Mountain?
Mr. Ruth: Yes, sir.
Examiner Burchmore: On its track?
Mr. Ruth: On its track, yes, sir.
Examiner Burchmore: It would simply involve at least unnecessary labor to load the lumber onto your narrow gauge cars and then transfer it to the junction?
Mr. Ruth: Yes, sir.
Examiner Burchmore: You haul logs into that mill?
Mr. Ruth: Yes, sir.
Examiner Burchmore: What are you paid for hauling the logs to the mill?
Mr. Ruth: We charge the Hargrove-Ruth Lumber Com-
5850 pany, one dollar per thousand.
Examiner Burchmore: A dollar per thousand what?
Mr. Ruth: Feet.
Examiner Burchmore: That is on manufactured lumber?
Mr. Ruth: No, on the log scale.
Examiner Burchmore: On the log scale?
Mr. Ruth: Yes, sir.
Examiner Burchmore: Didn't you formerly charge a dollar per thousand on the basis of the manufactured lumber?
Mr. Ruth: No, everything to the Hargrove and Ruth is a dollar a thousand on log measurement.
Examiner Burchmore: What divisions do you receive or have you been receiving from the Iron Mountain?
Mr. Ruth: We get two cents.
Examiner Burchmore: Plus a two cent arbitrary?
Mr. Ruth: Yes, sir.
Examiner Burchmore: In other words, the rate from stations on your line is two cents higher than the Iron Mountain rate?
Mr. Ruth: Yes, sir.
Examiner Burchmore: And you get that two cents and also an additional two cents out of the Iron Mountain treasury?
5851 Mr. Ruth: Yes, sir.
Examiner Burchmore: Are you familiar with tariffs and tariff terms?

Mr. Ruth: No, sir, I am not.

Examiner Burchmore: Do you know whether the rates on your line are on a milling-in-transit basis?

Mr. Ruth: No, sir, I think not.

Examiner Burchmore: The Iron Mountain Railroad pays you two cents and allows you an additional two cents. I don't understand what those amounts are, what service do you render for which you should receive that money?

Mr. Ruth: Well we have extended the line into the timber and are bringing out this raw material so that it can be turned over to the Iron Mountain.

Examiner Burchmore: You haul logs then?

Mr. Ruth: Haul logs, stavebolts and ties.

Examiner Burchmore: I am speaking now of the lumber or logs that belong to the Hargrove-Ruth Lumber Company.

Mr. Ruth: Yes, sir, we are hauling logs strictly for the Hargrove-Ruth Lumber Company.

Examiner Burchmore: You don't haul any stavebolts?

Mr. Ruth: No, sir.

5852 Examiner Burchmore: All the service that you perform in connection with their traffic is the carriage of the logs?

Mr. Ruth: Of the logs, yes, sir.

Examiner Burchmore: Do you issue any bills-of-lading?

Mr. Ruth: Do I, yes, sir.

Examiner Burchmore: Your railroad does?

Mr. Ruth: Yes, sir.

Examiner Burchmore: What bills-of-lading?

Mr. Ruth: I issue bills-of-lading from the Poplar Bluff & Dan River Railway.

Examiner Burchmore: But on what sort of traffic?

Mr. Ruth: On the lumber as it is shipped out from the mill.

Examiner Burchmore: Then although you do not actually haul the lumber as a railroad, yet you do issue the bills-of-lading?

Mr. Ruth: Yes, sir, this lumber when it is cut at the Hargrove-Ruth Lumber company's mill is taken into the yards and put in piles and some of it is put on skids and shipped from there. Then when the Hargrove-Ruth Lumber company is ready for the shipment to go forward, the Poplar Bluff & Dan River Railway

5853 Company issues a bill-of-lading and bills out the shipment.

Examiner Burchmore: What is the point of origin as shown?

Mr. Ruth: Ruthville is the billing station, Ruthville.

Examiner Burchmore: Where is Ruthville?

Mr. Ruth: Ruthville is supposed to be at the other end of the line, where the logs originate.

Examiner Burchmore: If I got on your engine and rode out there on the line, would I know when I came to Ruthville?

Mr. Ruth: Yes, sir, if I should tell you so. It is a little camp of about twenty-one houses.

Examiner Burchmore: There is no station there?

Mr. Ruth: No, sir.

Examiner Burchmore: Do you issue any waybills?

Mr. Ruth: Yes, sir.
Examiner Burchmore: What sort of waybills?
Mr. Ruth: We issue the regular waybill.
Examiner Burchmore: Interline waybills?
Mr. Ruth: Yes, sir.
Examiner Burchmore: How do you pay the charges, how do you pay or receive your charges on traffic interchanged with the Iron Mountain?
5854 Mr. Ruth: It is up at Poplar Bluff that the charge is paid.
Examiner Burchmore: Has your railroad been making money?
Mr. Ruth: Yes, sir.
Examiner Burchmore: Paid any dividends?
Mr. Ruth: Well we have it in the surplus account, we have not paid any dividends yet.
Examiner Burchmore: What is the capitalization of the road?
Mr. Ruth: We have $56,000.00 invested in the line.
Examiner Burchmore: How much is the authorized stock?
Mr. Ruth: Fifty thousand.
Examiner Burchmore: Have you ever issued any stock?
Mr. Ruth: Yes, sir.
Examiner Burchmore: How much?
Mr. Ruth: Fifty thousand.
Examiner Burchmore: Was that paid up in cash?
Mr. Ruth: No, physically it was not paid up.
Examiner Burchmore: How was it paid up?
Mr. Ruth: We just turned the road over to the Poplar Bluff & Dan River Railway.
5855 Examiner Burchmore: How much of a road did you turn over to them?
Mr. Ruth: Well we had—I really don't know how many miles there were.
Examiner Burchmore: Eight or ten miles?
Mr. Ruth: Eight or ten miles I suppose.
Examiner Burchmore: From whom had you acquired that railroad?
Mr. Ruth: We purchased that from some man by the name of Reidel who lives in Reading.
Examiner Burchmore: He had been running the road previously?
Mr. Ruth: No, he had purchased it under a receiver's sale.
Examiner Burchmore: Had it previously been operated as a railroad?
Mr. Ruth: As a tram road.
Examiner Burchmore: But not incorporated?
Mr. Ruth: No, sir.
Examiner Burchmore: It had not received any divisions?
Mr. Ruth: No, sir.
Examiner Burchmore: You purchased that railroad, and
5856 at the same time purchased some track?
Mr. Ruth: Yes, sir, the same line which the company had.

Examiner Burchmore: And you and your associates purchased the mill and the timber and the road at the same time?

Mr. Ruth: Yes, sir.

Examiner Burchmore: Did you pay any particular amount of money for the railroad itself?

Mr. Ruth: No, sir, it was not incorporated.

Examiner Burchmore: What surplus have you?

Mr. Ruth: I think $19,000.00.

Examiner Burchmore: Is that a cash surplus or a book surplus?

Mr. Ruth: Book surplus.

Examiner Burchmore: And in addition to that $19,000.00, you have extended your line for 17 miles?

Mr. Ruth: We have extended——

Examiner Burchmore: Out of the profits?

Mr. Ruth: No, sir.

Examiner Burchmore: You put more money——

Mr. Ruth: No, sir, not out of the profits.

Examiner Burchmore: Where did you get the money to extend the line?

5857 Mr. Ruth: We took it out of our pockets.

Examiner Burchmore: What did you put back into your pockets in exchange for that?

Mr. Ruth: We had issued the stock for it, $50,000.00.

Examiner Burchmore: Then where you built the road in your accounts is represented by $56,000.00?

Mr. Ruth: Yes, sir.

Examiner Burchmore: Do you handle anything except lumber and stavebolts and things of that kind?

Mr. Ruth: No, sir.

Examiner Burchmore: Is this railroad a common carrier?

Mr. Ruth: Yes, sir, we claim ourselves to be a common carrier.

Examiner Burchmore: Did you once report to the Commission that you were not a common carrier?

Mr Ruth: Well, I did in this way: I did not understand fully what a common carrier meant. I thought that a common carrier meant one that carried passengers and carried mail and all kinds of commodities, and at that time we were strictly hauling logs, staves and lumber.

Examiner Burchmore: You thought that a common carrier was one that carried common then. Do you have any passes over

5858 the Iron Mountain road?

Mr. Ruth: I have had, I have not now.

Examiner Burchmore: Do the salesmen for your company have any passes?

Mr. Ruth: No, sir.

Examiner Burchmore: Do you do any selling yourself?

Mr. Ruth: Do I?

Examiner Burchmore: Yes.

Mr. Ruth: Yes, sir.

Examiner Burchmore: Do you use your pass when you travel around to sell lumber?

Mr. Ruth: I do.

Examiner Burchmore: How long have you had a pass from this railroad, the Iron Mountain Railroad?

Mr. Ruth: I don't know. I have had it ever since I am incorporated as a common carrier.

Examiner Burchmore: When did you get that pass?

Mr. Ruth: When did I?

Examiner Burchmore: Yes, sir. You had had it for several years?

Mr. Ruth: Yes, I have had it.

Examiner Burchmore: That is a state pass?

5859 Mr. Ruth: Just a state pass.

Examiner Burchmore: Not good outside of the state?

Mr. Ruth: No, only good on the Iron Mountain in the state, good from Poplar Bluff to St. Louis.

Examiner Burchmore: Do you know Mr. Quelmette who has a mill on your line?

Mr. Ruth: No, sir.

Examiner Burchmore: There are four other mills on your line?

Mr. Ruth: Yes, sir, Mr. Heck has a mill on my line.

Examiner Burchmore: Are there four other mills on your line?

Mr. Ruth: Yes, sir.

Examiner Burchmore: At Poplar Bluff?

Mr. Ruth: No, near Poplar Bluff on the line.

Examiner Burchmore: Along down the line?

Mr. Ruth: Yes, sir.

Examiner Burchmore: Do you haul their stuff for them?

Mr. Ruth: Yes, sir.

Examiner Burchmore: Haul any logs for them?

Mr. Ruth: No logs.

Examiner Burchmore: Just their lumber and so forth?

5860 Mr. Ruth: Lumber, staves bolts and ties.

Examiner Burchmore: Taking the hardwood lumber?

Mr. Ruth: Yes, sir.

Examiner Burchmore: What rates do they pay your company?

Mr. Ruth: We charge them four dollars a car.

Examiner Burchmore: That is for hauling their lumber from where to where?

Mr. Ruth: Up to Poplar Bluff—from where it originates on our line to Poplar Bluff.

Examiner Burchmore: That is, for a mill that is located out on the line?

Mr. Ruth: Yes, sir.

Examiner Burchmore: How much does one of your cars hold?

Mr. Ruth: They are supposed to load about twenty-five hundred feet.

Examiner Burchmore: How many thousand pounds?

Mr. Ruth: About fifteen thousand pounds.

Examiner Burchmore: It is a little over two cents and a half to three cents a hundred pounds they pay on their lumber?

Mr. Ruth: Well, that depends altogether on the condition

5861 of it. We figure it about two cents a hundred.

Examiner Burchmore: What rate of freight do they pay to the Iron Mountain?

Mr. Ruth: What rate of freight do they pay the Iron Mountain?

Examiner Burchmore: Yes, they ship out over the Iron Mountain, don't they?

Mr. Ruth: Yes, sir, it goes out over the Iron Mountain.

Examiner Burchmore: What does the Iron Mountain get?

Mr. Ruth: The Iron Mountain gets—we transfer the lumber at Poplar Bluff onto Iron Mountain cars and bill it as from the Poplar Bluff & Dan River Railroad.

Mr. Burchmore: Then you bill it at the same rate that you bill your own shipments?

Mr. Ruth: Yes, sir.

Examiner Burchmore: In other words, two cents over the Iron Mountain rate?

Mr. Ruth: Yes, sir.

Examiner Burchmore: So that the shipper pays the Iron Mountain people that Iron Mountain rate and also $4.00 a car?

Mr. Ruth: Yes, sir, but that has to go back to the shipper.

5862 Examiner Burchmore: That four dollars is a small car?

Mr. Ruth: I mean two cents a hundred, when they have paid the freight I refund two cents, that is, two cents that the Iron Mountain pays me.

Examiner Burchmore: You had some agreement with the Iron Mountain railroad that they would give you divisions some years ago, didn't you?

Mr. Ruth: Yes, sir.

Examiner Burchmore: With whom did you make that arrangement?

Mr. Ruth: Mr. Burnett.

Examiner Burchmore: You heard Mr. Jeffery's statement about the correspondence bteween Mr. Burnett and Mr. Lincoln?

Mr. Ruth: Yes, sir.

Examiner Burchmore: I suppose that referred in some way to your conversation with Mr. Burnett. What was your arrangement with Mr. Burnett?

Mr. Ruth: Well, when I got this line I went to Mr. Burnett and asked him what would be necessary for me to do to obtain divisions.

5863 He told me that if I would incorporate and would agree to give their line all the business, he would make an interline with me, as they call it.

Examiner Burchmore: On your own traffic?

Mr. Ruth: Yes, sir.

Examiner Burchmore: Well how about the staves of these other men out on the line?

Mr. Ruth: The staves that go to the factory over there, I do not get anything out of them.

Examiner Burchmore: Don't get anything?

Mr. Ruth: I don't bill that stuff, that is, I only bill such stuff that I bring up and transfer to the Iron Mountain cars. There are two plants located at Poplar Bluff on my line, the Binal-Ashcraft Manufacturing Company and the Hanna & Young Handle Works.

Examiner Burchmore: You don't get anything on those staves?

Mr. Ruth: Then I don't do any more than to push in the raw

material to their tracks and they bill it out over the Iron Mountain themselves.

Examiner Burchmore: Aren't you paid anything at all for that service?

Mr. Ruth: I get four dollars a car.

Examiner Burchmore: There are four other mills located
5864 at Poplar Bluff whose raw material is brought in over your railroad and the manufactured product shipped out over the Iron Mountain?

Mr. Ruth: There is the Hanna & Young Handle Company, the Binal-Ashcraft Manufacturing Company, and W. T. Morrison Company's mill. Those are the mills.

Examiner Burchmore: At the time that you agreed with Mr. Burnett for the Iron Mountain, that divisions would be given your road on traffic supplied by Hargrove & Ruth, was it not understood that you would not receive any divisions on traffic that was handled for these other four mills?

Mr. Ruth: Only for the Hanna & Young and the Binal & Ashcraft.

Examiner Burchmore: Those two?

Mr. Ruth: Yes, sir.

Examiner Burchmore: That was the understanding?

Mr. Ruth: Yes sir.

Examiner Burchmore: Why was it so understood?

Mr. Ruth: Well, I really could not say, only he made that request of me.

Examiner Burchmore: You have no knowledge of his reason for this?

5865 Mr. Ruth: No, I don't know why he did that, he made that request.

Examiner Burchmore: You don't know whether your mill gets a milling-in-transit privilege?

Mr. Ruth: I do not; no, sir.

Examiner Burchmore: I take it, you do. Of course, we can refer to the tariff to ascertain the facts; but these other mills, you take and bill their traffic as originating up in the woods and move it out over the Iron Mountain?

Mr. Ruth: Yes, sir.

Examiner Burchmore: You handle it locally for four dollars?

Mr. Ruth: Four dollars a car is what I get from those mills.

Examiner Burchmore: Do you publish that charge?

Mr. Ruth: No, sir.

Examiner Burchmore: Just a charge that you know about yourself, you do not get out any tariff?

Mr. Ruth: No, sir.

Examiner Burchmore: Have you any safety-couplers on your engines?

Mr. Ruth: No, sir.

5866 Examiner Burchmore: What kind of couplers have you?

Mr. Ruth: We have the ordinary pin and link couplers.

Examiner Burchmore: Do you haul any traffic over your line except logs.

Mr. Ruth: No, sir, that is all I haul.

Examiner Burchmore: Have you any cars except logging cars?

Mr. Ruth: I have logging cars and then I have what is termed a flat car in which stay bolts are hauled.

Examiner Burchmore: You also haul manufactured lumber though?

Mr. Ruth: They are hauled on those flat cars, but we haul on the log cars usually.

Examiner Burchmore: Has there been any complaint against your road or against your manner of doing business by these other mills down there?

Mr. Ruth: Not that I have heard of.

Examiner Burchmore: They are all satisfied?

Mr. Ruth: If they are not I don't know it.

Examiner Burchmore: Have you had any relations with the Arkansas State Commission?

Mr. Ruth: No, sir.

Examiner Burchmore: Or the Missouri State Commission?

5867 Mr. Ruth: No, sir.

Examiner Burchmore: How much revenue have you received from other shippers during the past year, and how much from Hargrove & Ruth?

Mr. Ruth: I think I can tell you. For the year 1910, I received from other shippers $2,437.22.

Examiner Burchmore: How much from the Iron Mountain on——

Mr. Ruth: From the Hargrove & Ruth Company, $6,190.35.

Examiner Burchmore: Anything from the Iron Mountain Railroad?

Mr. Ruth: From interlines?

Examiner Burchmore: Yes.

Mr. Ruth: I got $8,997.14.

Examiner Burchmore: That interline was all Hargrove & Ruth business?

Mr. Ruth: Yes, sir, and on some timber shipped by the Hearne Tie & Timber Company.

Examiner Burchmore: That last figure covers that?

Mr. Ruth: Yes, sir.

Examiner Burchmore: What did it cost you to operate your road last year?

Mr. Ruth: It cost me $7,895.62.

5868 Examiner Burchmore: What was your profit?

Mr. Ruth: The difference would be about $10,000.00

Examiner Burchmore: How long before your timber there will be cut out.

Mr. Ruth: It will take eight or ten years to complete the work.

Examiner Burchmore: How many of your carloads does it take to make a standard carload on the Iron Mountain?

Mr. Ruth: Well, I should think it would take eight.

Examiner Burchmore: You mean eight carloads of your logs will manufacture into one carload of standard lumber?

Mr. Ruth: To make a carload of lumber it takes four carloads, that is, if it is on the basis of 10,000 feet to a carload.

Examiner Burchmore: That means that in order to give the Iron Mountain one carload of lumber, you have to haul four carloads of lumber over your line?

Mr. Ruth: Yes, sir.

Examiner Burchmore: Is there anything further you wish to say, Mr. Ruth?

Mr. Ruth: I have nothing further to say.

Mr. Garwood: I have no questions.

5869 Examiner Burchmore: This seems to be all.

Whereupon, at 10:00 o'clock P. M., an adjournment was taken until Friday, January 27, 1911, at 9:30 o'clock A. M.

5870 ST. LOUIS, MISSOURI, *January* 27, 1911—
9:30 a. m.

Supplemental hearing held before Special Examiner John D. Burchmore.

Met pursuant to adjournment.

Paragould & Memphis Railroad Company.

JOHN W. VAIL was called as a witness and having been duly sworn, testified as follows:

Examiner Burchmore: Please give your name to the stenographer.

Mr. Vail: John W. Vail. I just wish to state that I will answer as to the organization of the railroad, but the details concerning the divisions, freights and such as that, Mr. Merryman will answer that.

Examiner Burchmore: You are president of the Paragould & Memphis Railroad Company?

Mr. Vail: Yes, sir; I am president.

Examiner Burchmore: I will be glad if you will tell us about the organization of this railroad in your own way.

Mr. Vail: Well, the articles of incorporation were gotten
5871 about November 20, 1902, with an authorized capital stock of $525,000, of which there was $60,000 subscribed, and $48,950 was paid in. We paid cash for all the stock in this way, that the railroad at this time was about nine miles long. It was an asset of the Decatur Egg Case Company. We reduced our capital stock of the Decatur Egg Case Company at 85 cents on the dollar, and took stock in the P. & M. for $48,950, which was then the value of the railroad which was owned by the Decatur Egg Case Company. The stockholders of the railroad at that time were John W. Vail, W. H. Niblick, A. T. Vail, S. N. Vail, Daniel Sprang, D. L. Quinn, E. A. Vail, J. E. Thomas and J. B. Hale, making a total of 4,890½ shares on the value of $100 per share.

Examiner Burchmore: Those gentlemen were also interested in the Decatur Egg Case Company?

Mr. Vail: At that time they were, with the exception of J. B. Hale.

Examiner Hale: What was his holding in the railroad?
Mr. Vail: His was one share.
Examiner Burchmore: He was a director?
Mr. Vail: He was a director.
5872 Examiner Burchmore: But the rest of you held stock in the Decatur Egg Case Company in about the same proportions?
Mr. Vail: In about the same proportions, yes, sir.
Examiner Burchmore: Can you tell me about the growth of this railroad company and the change in its ownership, just make a little history of it?
Mr. Vail: Right after that reorganization, or articles, rather, of incorporation, we started to build the P. & M. railroad and added on to it about eight and one half miles of track.
Mr. Burchmore: That was in addition to the nine you already had?
Mr. Vail: Yes, sir; that was in addition. That line went then into Manila in Mississippi County, Arkansas.
Examiner Burchmore: Let me ask you first, where were these nine miles?
Mr. Vail: It was out as far as Geneva, that is a station on our line.
Mr. Burchmore: From Paulding to Geneva, you mean?
Mr. Vail: No; from Cardwell to Geneva, Paulding being our first station.
Examiner Burchmore: You connected at Cardwell with
5873 the Cotton Belt?
Mr. Vail: The Frisco connected with us at that time. At Cardwell we are connected with the Cotton Belt and Paragould and Southeastern.
Examiner Burchmore: You did not get any traffic from the Southeastern at that time?
Mr. Vail: No, not at that time.
Examiner Burchmore: They were not built, or you just did not get it?
Mr. Vail: We had no connection with it at that time, we had no working agreement with it.
Examiner Burchmore: I don't think you finished your statement of the history of the road.
Mr. Vail: Well, as I say, the roadbed was a very good roadbed, the grade being in some places as much as six feet. We laid this with good ties and 56 pound steel rails. We then opened up stations at Manila, Arkansas, had a station at Buckeye, a station at Geneva, a station at Paulding, Missouri, and a station at Cardwell. We then——
Examiner Burchmore: When did you open those stations?
Mr. Vail: Right after we had got our line finished.
Mr. Burchmore: That was in 1903 or 1904?
5874 Mr. Vail: Probably 1903.
Examiner Burchmore: And your line was how long?
Mr. Vail: Seventeen miles and a fraction,—17.10
Examiner Burchmore: Now you may continue.

Mr. Vail: We then bought us a passenger coach and instituted a regular line which we have kept up to the present time. We make a round trip over our line from Cardwell to Manilla, we carry passengers and freight. Then in the afternoon we make an extra run from Cardwell to Paulding to connect with the Frisco Railroad, in addition to the main run we make in the forenoon to Manila.

Examiner Burchmore: At the present time you have about thirty miles of track, have you not?

Mr. Vail: Twenty-seven miles and a quarter, I believe it is.

Examiner Burchmore: You have accounted for only 17 miles in your statement.

Mr. Vail: Yes, sir. In 1906 we began a line running south from Cardwell about eight miles, which has been completed, and we make one trip a day over this part of the line.

Examiner Burchmore: That is a branch line?

Mr. Vail: Well, we designate it as the straight line, and we designate the main line as the air line.

5875 Examiner Burchmore: Have you any map of your road?

Mr. Vail: We haven't any here with us, no, sir.

Examiner Burchmore: I wonder if you could make a little rough sketch?

Mr. Merryman: I think I can make a rough sketch.

Examiner Burchmore: What is the present outstanding stock holding of this road?

Mr. Vail: $58,950.

Examiner Burchmore: And you have issued an additional $10,000 of stock?

Mr. Vail: $10,000, yes, sir.

Examiner Burchmore: Was that paid for in cash?

Mr. Vail: Yes, sir.

Examiner Burchmore: To whom was it sold?

Mr. Vail: It was sold to French Quinn.

Examiner Burchmore: Who is Mr. Quinn?

Mr. Vail: French Quinn was an ex-cashier, or an assistant-cashier, of the old Adams County Bank, Decatur, Indiana.

Examiner Burchmore: He is your banker, isn't he?

Mr. Vail: No, sir.

Examiner Burchmore: I thought you were in Indiana.

Mr. Vail: I am from Indiana, yes, sir.

5876 Examiner Burchmore: Does Mr. Quinn now hold that stock?

Mr. Vail: He holds fifty shares of it.

Examiner Burchmore: Who holds the other fifty?

Mr. Vail: Fifty shares passed into the hands of a man named R. K. Allison, and he and Quinn, they hold it jointly together. What arrangement they have I do not know.

Examiner Burchmore: Who holds the balance of the stock, the other $48,950 of stock, the same gentlemen whom you referred to a few minutes ago?

Mr. Vail: No, sir. John W. Vail, R. K. Allison, R. S. McClellan——

Examiner Burchmore: You might give the number of shares as you read the names.

Mr. Vail: John W. Vail, 131½ shares; R. K. Allison and Quinn—now I think that that is the way it is—50 shares; R. S. McClellan, 12 shares; C. R. Vail, 299 shares; D. L. Quinn, 4 shares; S. N. Vail, 24½ shares; E. A. Vail, 15½ shares; J. B. Hale, 1 share; A. Burdick, 1 share; Dan R. Vail, 1 share; French Quinn, 50 shares; making $58,950.

Examiner Burchmore: Who is D. L. Quinn?

Mr. Vail: He is a brother of French Quinn, and is in the
5877 employ of the Paepcke-Leicht Lumber Company of Chicago.

Examiner Burchmore: Do they buy anything from you?

Mr. Vail: How is that?

Examiner Burchmore: Do they buy any lumber from your firm?

Mr. Vail: No, sir. I do not manufacture lumber.

Examiner Burchmore: Do they buy any material from your companies in which you are interested?

Mr. Vail: No, sir.

Examiner Burchmore: They do not cut lumber down in that territory?

Mr. Vail: No, I think not. They moved some timber from a mill there by the name of Joe Thomas, which used to be a former stockholder of our mill, and he bought a saw mill for them and they bought lumber from his mill; that was last year.

Examiner Burchmore: I will ask you to furnish us with a map of your road. It does not need to be an elaborate map, but we would like it to show—to be drawn to a scale.

Mr. Vail: I think we have sent you one.

Mr. Merryman: I don't think so, Mr. Vail.

Mr. McKay: We will furnish that.

5878 Examiner Burchmore: I want it to show the mills along the line, all the mills.

Mr. McKay: Yes, sir.

Examiner Burchmore: Suppose you don't make it any larger than this table at the largest. (Indicating table.)

Mr. Vail: Oh, no, we will not make it as large as that.

Examiner Burchmore: As small as you can with clearness.

Mr. Vail: You want it made on a scale, and to show the mills along the line?

Examiner Burchmore: Yes, sir.

Mr. McKay: The location of the tracks?

Examiner Burchmore: Yes, sir. Any map will do, a map such as you or I would draw.

Mr. Vail: All right, we will get you one.

Examiner Burchmore: How many of the stockholders in your railroad company or interested in the stave or box companies in which you *are* your associates are interested?

Mr. Vail: Well, myself, I have stock in the Cardwell Stave Company and in the Buffalo Stave Company. Then in the Indiana Stave Company Mr. E. A. Vail has stock. He also has stock in the

Paulding Stave Company. Now that is — far as I can speak intelligently about the stock.

5879 Examiner Burchmore: Who is C. D. Vail?

Mr. Vail: C. D. Vail is my wife. When I speak for myself, why I speak for 299 shares.

Examiner Burchmore: Are Messrs. Allison or Quinn, either one of them, interested in any of these companies?

Mr. Vail: No, sir.

Examiner Burchmore: Directly or indirectly in any way, shape or manner interested?

Mr. Vail: In no shape or form whatever.

Examiner Burchmore: They are not trustees under a mortgage or anything of that kind?

Mr. Vail: No, sir.

Examiner Burchmore: Can you tell me how they acquired their stock?

Mr. Vail: Well, we have a lumber company called the Cardwell Mill & Lumber Company on our line. Mr. Allison was the principal stockholder of this concern. Mr. Quinn helped form the organization with Mr. Allison, and by some crook or turn, I don't know how it was, Mr. Allison got hold of 50 shares of Mr. Quinn's stock. They held it jointly, and that stock is hypothecated at the old Adams County Bank in Decatur, Indiana. That is the history that I have.

5880 Examiner Burchmore: Who did you say was the cashier of that bank?

Mr. Vail: The cashier now is Mr. Ecke.

Examiner Burchmore: Yes, but there was one of these stockholders that you said was interested.

Mr. Vail: Ex-assistant—he used to be assistant-cashier.

Examiner Burchmore: Who was that?

Mr. Vail: French Quinn. That was several years ago.

Examiner Burchmire: Well, Messrs. Quinn and Allison are both interested in the Cardwell Mill & Lumber Company?

Mr. Vail: Yes, sir.

Examiner Burchmore: That is an Indiana concern?

Mr. Allison: No. It is in the hands of bankruptcy.

Examiner Burchmore: How long have they been bankrupt?

Mr. Vail: They went into bankruptcy about ten or twelve days ago.

Examiner Burchmore: Do you know what is the occasion of their bankruptcy, what caused their downfall?

Mr. Vail: Jealousy and selfishness on the part of R. K. Allison.

Examiner Burchmore: It has nothing to do with your railroad?

5881 Mr. Vail: No, sir; not in any way, shape or form.

Examiner Burchmore: It is not because of any change in your rates or because——

Mr. Vail: Oh, no, not at all; just as I stated.

Examiner Burchmore: The rates have been cancelled in connection with your line, some of them, haven't they?

Mr. Vail: Yes, sir.
Mr. Merryman: That is lumber products.
Examiner Burchmore: Did the Frisco cancel all your joint rates?
Mr. Merryman: They certainly did.
Examiner Burchmore: Did the Cotton Belt cancel?
Mr. Merryman: No.
Mr. Vail: No, sir; they gave us notice.
Examiner Burchmore: I did not know they had cancelled all of the joint rates.
Mr. McKay: I have just got an extension order.
Mr. Vail: Yes. We notified the commission.
Examiner Burchmore: It has been cancelled, but they extended the time?
Mr. Vail: They protected us——
Examiner Burchmore: They have protected you in everything?
5882 Mr. Vail: No, just—I would rather Mr. Merryman would give you that.
Examiner Burchmore: I will ask Mr. Merryman.
Mr. McKay: He is more familiar with the details.
Examiner Burchmore: Are you interested in the Cardwell Mill & Lumber Company?
Mr. Vail: No, sir.
Examiner Burchmore: Who sells their lumber?
Mr. Vail: Allison sold their lumber.
Examiner Burchmore: Their lumber goes to the Paepcke-Leicht Lumber Company?
Mr. Vail: No, I don't know that.
Examiner Burchmore: Do you manufacture any lumber yourself?
Mr. Vail: No, sir.
Examiner Burchmore: I understand that you, Mr. Vail, practically control the Cardwell Stave Company?
Mr. Vail: Yes, sir.
Examiner Burchmore: You and your associates?
Mr. Vail: Yes, sir.
Examiner Burchmore: And the same is true of the Buffalo Stave Company?
5883 Mr. Vail: Yes, sir.
Examiner Burchmore: How about the Cardwell Box Company?
Mr. Vail: Well now, speaking for the present time, I moved the Buffalo Stave Company from Geneva, Missouri into—and have set it up in Cardwell Box Company, have leased the building from my wife, who bought in the Cardwell Box Company as it was sold under sheriff's sale.
Examiner Burchmore: The Cardwell Box Company——
Mr. Vail: Was a defunct institution and was bought in by my wife, and I moved the Buffalo Stave Mill in, and we are running now the Buffalo Stave Mill in the Cardwell Box Company's building.

Examiner Burchmore: And the Cardwell Box Company is out of business?

Mr. Vail: It is out of business, yes, sir.

Mr. McKay: And has been for some time?

Mr. Vail: Yes, it is for some time.

Examiner Burchmore: What caused them to become defunct?

Mr. Vail: I used to be president of the Decatur Egg Case Company, and we owned the building and the assets, or rather the building and machinery that afterwards became the Cardwell Box Company, and the Cardwell Box Company was formed
5884 I went out as president and there was a new president and a new secretary and manager put in, and those three men made a failure in manufacturing, consequently they went to the bad. Although I was a stockholder in the concern at the time it went defunct, yet I was not an active member in the concern.

Examiner Burchmore: Did you have a controlling interest in it?

Mr. Vail: No, I did not at that time.

Examiner Burchmore: Who controlled it?

Mr. Vail: Well, it was equally divided. I was a stockholder, W. H. Niblick was a stockholder, who is now the receiver, and the two Quinn boys.

Examiner Burchmore: Well, let me ask you who owns this railroad?

Mr. Vail: Well——

Examiner Burchmore: You have the stockholders, but who controls it?

Mr. Vail: I just gave you the names of the present stockholders. John M. Vail is the largest stockholder and controls the railroad; that is, he acts as president and general manager.

Examiner Burchmore: What became of the Decatur Egg
5885 Case Company?

Mr. Vail: After we organized our railroad, the Decatur Egg Case Company drew out of the manufacturing business and ceased to do business. Although the Decatur Egg Case Company owns some land in the neighborhood of Cardwell, I still act as the president of the company, we have not an active company, we simply own some land down there. We are selling them off and want to go farther south. These lands do not border on the P. & M. Railroad, only one section. The biggest part of our lands is south of Manilla, seven miles from our railroad, and the balance is lying over on the P. & S. E. and Frisco Railroads.

Examiner Burchmore: The original nine miles of this railroad were built to serve the Decatur Egg Case Company?

Mr. Vail: The Decatur Egg Case Company when they first came into Cardwell, they bought timber off of 8,000 acres of land that belonged to William Hunter, and they ran in a southeasterly direction, and we built our railroad down through that 8,000 acres of timber and hauled it in to the Decatur Egg Case Company. When that was finished, then the Egg Case Company quit manufacturing goods.

Examiner Burchmore: What was the purpose of the ex-
5886 tension of your line in 1906 to Manilla?

Mr. Vail: We went over that land several times, we saw it was very fertile country, the ground was nice and sandy and very productive, and we had bright prospects of becoming great railroad men, and we built down through there to serve the public.

Examiner Burchmore: Did you own any timber down in that direction?

Mr. Vail: No, sir.

Examiner Burchmore: You did not own any timber there?

Mr. Vail: No, not a foot.

Examiner Burchmore: At Manilla you connected with the Jonesboro, Lake City & Eastern?

Mr. Vail: Yes, sir; J. L. C. & E.

Examiner Burchmore: What system is that part of?

Mr. Vail: They are simply a separate corporation from——

Mr. McKay: Extending from Jonesboro to Blytheville, Arkansas. I think local men own it.

Examiner Burchmore: Is that supposed to be controlled by the people who own some mills?

Mr. McKay: No, sir.

Mr. Vail: No.

5887 Examiner Burchmore: Is that much of a railroad?

Mr. Vail: Yes, sir; it is a very good railroad for that part of the country.

Mr. McKay: The stock is owned and controlled by two men, one by the name of Brown, and Kerfoot.

Mr. Merryman: About eighty miles of road.

Mr. Vail: A good road.

Mr. McKay: They have no milling interests at all.

Examiner Burchmore: Has this railroad paid any dividends?

Mr. Vail: No, sir.

Examiner Burchmore: Have you got a surplus?

Mr. Vail: No, sir; we have no surplus.

Examiner Burchmore: Are you losing money?

Mr. Vail: No.

Examiner Burchmore: What is the state of your finances?

Mr. Vail: Well, we have a first mortgage on our railroad of $25,000, which is held by the old Adams County Bank of Decatur, Indiana. We pay them 6 per cent interest semi-annually on that loan. We have always kept the interest up, and the balance of our earnings goes into construction, making our road better. Two or three years ago we took up 35-pound steel lying between Paulding and Cardwell and laid it with 60-pound steel, and we
5888 have taken some of our earnings and built this eight miles south of Cardwell. The road owes the Decatur Egg Case Company a second mortgage of $90,000.

5889 We have been charging this interest up on the books until this last year when our Mr. Merryman forgot it for the simple reason that nobody called his attention to it, but we have

not been able to pay the Decatur Egg Case Company any interest on this mortgage.

Examiner Burchmore: What is the rate of interest on that $90,000?

Mr. Vail: Six per cent.

Examiner Burchmore: The first mortgage is $25,000?

Mr. Vail: Yes, sir.

Examiner Burchmore: What use was made of the money raised by that mortgage?

Mr. Vail: We used it in the extension of and improving our road at the time that we built from the end of the nine miles that I first spoke about, to Manilla. We had no bank at Cardwell, and as the pay rolls would come due, we would issue requisitions—the P. & M. Railroad would issue requisitions against the old Adams County Bank, Decatur, Indiana, and when they could come up there, the Decatur Egg Case Company, having money, would go in and take up these requisitions, and the debt was increased until this
5890 $90,000 was made.

Examiner Burchmore: What did that nine miles extension into Manilla cost?

Mr. Vail: That nine miles into Manilla cost in the neighborhood of about six or seven thousand dollars a mile.

Examiner Burchmore: Is that all built?

Mr. Vail: All built, yes, sir.

Examiner Burchmore: Is it a difficult country to build through?

Mr. Vail: Yes, sir, a difficult country to build through, that is, we call it difficult; of course it would not be called difficult, not through mountains, or anything like that. We have built bridges——

Examiner Burchmore: Is the road well built?

Mr. Vail: The road is well built. One trouble that we had in there has been the breaking of the levee of the Mississippi river, which came in there on two different occasions and washed us out, and we have had to expend a large amount to put it back again. We had to get more money and still have it to change some places six feet, six or seven feet.

Examiner Burchmore: What use was made of that
5891 $90,000, a similar use?

Mr. Vail: That made part of the $90,000, and then the other improvements, building south of Cardwell, added some more to the $90,000 debt.

Examiner Burchmore: Your present mileage is twenty-seven miles?

Mr. Vail: Twenty-seven miles and a fraction.

Examiner Burchmore: What did the road cost?

Mr. Vail: Well, the book value of our road now stands about $220,000.

Examiner Burchmore: Less than $10,000 a mile?

Mr. Vail: Less than eight, I guess it is.

Mr. Merryman: Just a little over eight, $8,200.

Examiner Burchmore: Suppose you had not had all this breaking down of the levee, what would your road have cost?

Mr. Vail: Well, we would have had it down then to about $6,000, I guess.

Examiner Burchmore: But the road is well built?

Mr. Vail: The road is well built.

Examiner Burchmore: You are well equipped with rolling stock?

Mr. Vail: We consider it well equipped.

5892 Examiner Burchmore: We can bring out the details by Mr. Merryman, he can give us those?

Mr. Vail: Yes; that is right.

Examiner Burchmore: Did you hear the testimony we took yesterday about a road in there that cost $16,000 a mile?

Mr. Vail: Yes, sir.

Examiner Burchmore: What did you say about that road?

Mr. Vail: I would say the fellow was telling a story.

Examiner Burchmore: Perhaps others might think so. He did not say that it cost $16,000 a mile, either, as I understood it, he said that was the book value. You have got as good a road as he has from his description?

Mr. Vail: Yes, I think we have a better.

Examiner Burchmore: Your road is as well built as most of these short line railroads in Missouri, or better?

Mr. Vail: We have had the engineers of the Frisco Railroad over our railroad. We have had the engineer of the Cotton Belt over our railroad, and they submitted statements on it unbeknown to us to the Mercantile Trust Company, because we tried to make a loan, and we have got those figures here that show that we are all right.

Mr. McKay: We have a better road than the Frisco

5893 Railroad had when it was first built up here.

Examiner Burchmore: A better road than they have got now?

Mr. McKay: No, not better than the Frisco has now.

Mr. Merryman: You might state that the County seems to think that we are the best road in that part of the country. It has assessed us at least $4,400 a mile higher than any line around there.

Examiner Burchmore: Have you paid it?

Mr. Merryman: No, we have not paid it and we are not going to pay it.

Examiner Burchmore: You contemplate floating an additional loan?

Mr. Vail: Yes, sir.

Examiner Burchmore: May I ask for what purpose?

Mr. Vail: Build our road into Paragould, and south of Manilla, about fifteen miles.

Examiner Burchmore: What is the purpose of those extensions?

Mr. Vail: To get our road in better running condition than it now is.

Examiner Burchmore: Have you bought any timber down in that direction?

5894 Mr. Vail: Yes, south of Manilla we go into an unbroken forest for ten miles.

Mr. McKay: Not belonging to you, though?

Mr. Vail: Oh, no, it don't belong to us.

Mr. McKay: No.

Examiner Burchmore: Have you any interest in it?

Mr. Vail: No.

Mr. Burchmore: Are you thinking of buying some of that timber?

Mr. Vail: No.

Examiner Burchmore: All hardwood?

Mr. Vail: Well, considerable hardwood. We call it soft principally, gum and cottonwood.

Examiner Burchmore: The factories in which you are interested, are they going to continue in operation indefinitely?

Mr. Vail: Oh, yes, but we do not take anything off our lands to speak of. We are getting our timber now from wagons that come in.

Examiner Burchmore: Your timber comes in by wagons?

Mr. Vail: Comes in now by wagons.

Examiner Burchmore: Into the mill by wagons?

5895 Mr. Vail: Yes, the bulk of it does. Of course we get some timber off of our own road, but not enough to——

Examiner Burchmore: Do you haul your staves and so forth out?

Mr. Vail: Yes, sir.

Examiner Burchmore: You haul the stuff out that the Buffalo Stave Company and these other industries in which you are interested manufacture?

Mr. Vail: Yes, sir.

Examiner Burchmore: What I might call your main line runs from Cardwell to Paulding?

Mr. Vail: To Manilla.

Examiner Burchmore: Running out of Cardwell, the first section through which it passes, section 11, is owned by you people?

Mr. Vail: Owned by the Decatur Egg Case Company.

Examiner Burchmore: I mean by you, that is by the Decatur Egg Case Company?

Mr. Vail: Yes, sir.

Examiner Burchmore: In which you are largely interested?

Mr. Vail: Yes, sir.

5896 Examiner Burchmore: You control that company?

Mr. Vail: Yes, I control it.

Examiner Burchmore: Is there any timber standing in that section?

Mr. Vail: No, sir.

Examiner Burchmore: Any timber that is, to speak of?

Mr. Vail: No, sir; they are all cut off.

Examiner Burchmore: Then from a point a fraction of a mile out of Cardwell you have what I should call a branch line extending through Sections 11, 14, 22 and 27?

Mr. Vail: Yes, sir.

Examiner Burchmore: And along that line you apparently own considerable land in Section 14, the northeast quarter of Section 22, through which your railroad passes the entire length?

Mr. Vail: Yes, sir, we own the land.

Examiner Burchmore: Is there any timber on that land?

Mr. Vail: No, sir.

Examiner Burchmore: There seems to be no timber along your line which you own?

Mr. Vail: No, sir.

Examiner Burchmore: Or which the company in which
5897 you are interested owns?

Mr. Vail: No, there is 217 acres there.

Examiner Burchmore: But in the southwest quarter of Section 27 you do own——

Mr. Vail: 217 acres.

Examiner Burchmore: Of timber?

Mr. Vail: Timber.

Examiner Burchmore: And that is within a mile of your railroad?

Mr. Vail: Three-quarters I will call it.

Examiner Burchmore: Are you cutting timber on that?

Mr. Vail: No, sir, it is swamp.

Examiner Burchmore: It is all a swamp and you cannot get into it?

Mr. Vail: No, sir.

Examiner Burchmore: Any other timber?

Mr. Vail: We own on Section 23, 200 acres.

Examiner Burchmore: And your railroad does not pass through Section 23?

Mr. Vail: No, sir.

Examiner Burchmore: I would be glad if you would show the land holdings on your map, and indicate whether there
5898 is any timber on it. On the Paragould & Southeastern Railway, which runs east from Cardwell, do you own any land east of Cardwell?

Mr. Vail: Yes.

Examiner Burchmore: You own then the whole of Section 6 through which that railroad passes?

Mr. Vail: Yes, sir.

Examiner Burchmore: A considerable part of Section 1?

Mr. Vail: Yes.

Examiner Burchmore: All of Section 36?

Mr. Vail: 36

Examiner Burchmore: And a little of Section 2?

Mr. Vail: Yes, sir.

Examiner Burchmore: The road does not pass through Section 36?

Mr. Vail: No, sir.

Examiner Burchmore: And the land that you own in Section 2 is near the northeast quarter, whereas the railroad, the Paragould & Southeastern, passes through the south half?

Mr. Vail: Yes, sir.

Examiner Burchmore: Are you cutting any timber in those sections?

5899 Mr. Vail: No, sir.

Examiner Burchmore: Does the Paragould & Memphis Railroad have any trackage rights over any other railroad?

Mr. Vail: No, sir.

Examiner Burchmore: Operates no trains?

Mr. Vail: No.

Examiner Burchmore: Let me ask you, where do you get the timber which is used in the factories in which you are interested?

Mr. Vail: We get it around here. We get it a little further back here.

Examiner Burchmore: Give the sections.

Mr. Vail: The main road runs out on this—the main wagon road runs out here. (Indicating.)

Examiner Burchmore: And north of Cardwell?

Mr. Vail: Yes, sir.

Examiner Burchmore: In other words, all the stave material and so forth is being brought in by wagon, practically speaking?

Mr. Vail: The bulk of it is.

Examiner Burchmore: Isn't that rather an expensive process?

5900 Mr. Vail: Yes.

Examiner Burchmore: You buy it f. o. b., you buy it delivered at the mills?

Mr. Vail: Yes, sir.

Examiner Burchmore: It is not being cut on your land?

Mr. Vail: No, we have none to cut, only this up here (indicating) that we have not touched as yet. It is all in litigation now.

Examiner Burchmore: Have you bought—got any logging spurs connected with your railroad anywhere?

Mr. Vail: No, sir.

Examiner Burchmore: Have you got any spur tracks of any kind?

Mr. Vail: No, sir.

Examiner Burchmore: Will you, without referring to any map—will you tell me where the different—what different mills are located on your line? I refer to mills that are in operation.

Mr. Vail: Well, the Cardwell Box Company is in operation, which we classify as the Cardwell Stave Company, Mill No. 2.

Examiner Burchmore: Where is that mill?

5901 Mr. Vail: That is in the old box factory that we have. It is on the transfer track between the Cotton Belt, between the P. & S. E. Railroad and the P. & M. Railroad. The Cardwell Stave Company is located on the same track. The Indiana Stave Company is located west of our depot at Cardwell, on the tracks of the P. & M. The Lawson Stave Company is located on the spur tracks that run south of Cardwell.

Examiner Burchmore: What does it manufacture?

Mr. Vail: Lumber.

Examiner Burchmore: You are not interested in that?

Mr. Vail: No, sir. The Paulding Stave Company is located at Paulding on the tracks of the P. & M. Railroad.

Examiner Burchmore: They manufacture staves?

Mr. Vail: They manufacture staves. Now, the Manilla Stave Company is located on the tracks of the J. & L. C. at Manilla. Now, that is the lumber industries of any consequence on our line. Of course we have one mill located on what we call the Cardwell Stave Company switch.

Mr. McKay: Give its name.

Examiner Burchmore: That is in Cardwell?

Mr. Vail: That is in Cardwell.

5902 Examiner Burchmore: That switch connects with the P. & S. E.?

Mr. Vail: No, that connects with the P. & M.

Examiner Burchmore: Doesn't it connect with the other roads?

Mr. Vail: No.

Examiner Burchmore: What is the name of that company?

Mr. Vail: John Green, called the John Green saw mill.

Examiner Burchmore: Then you have another saw mill, you say?

Mr. Vail: Yes, sir; that is the Walker & Thomas mill. That is located on the spur track south of Cardwell, leading out from our main track south.

Examiner Burchmore: Are there any more manufacturing enterprises on your line?

Mr. Vail: That is the extent of the lumber manufactories.

Mr. Merryman: There is a shingle mill on the end of this stub that you have forgotten.

Mr. Vail: I thought you should bring that out.

Examiner Burchmore: The Century Sawmill Company.

Mr. Vail: Yes, we have a saw mill out at the end of

5903 our spur out there, called the Century Saw Mill Company.

Mr. Merryman: Bele & Knight.

Examiner Burchmore: Let we ask you so that we will have it in concrete shape; would you mind giving us a list, a typewritten list of all the enterprises on your spur line?

Mr. McKay: Yes, sir.

Examiner Burchmore: In connection with the names of such enterprises indicate what they manufacture, what their output is, how much of it you handle. You might also indicate if you please, where they get their raw material, I mean where, geographically speaking, where they go to to get it. I would also like to know with respect to each industry, what persons are interested in that industry, either stockholders or otherwise, own any stock in your railroad, and what the extent of their interest is in the two corporations. I don't want you to go to a great deal of trouble and pry into other companies' affairs in order to answer this question, but give us the best answer you can in the form of a statement, which we will file with your testimony later. I think the Commission

will want that. Do you have any free passes over the Cotton Belt and Frisco?

5904 Mr. Vail: Yes, sir.

Examiner Burchmore: Have an annual?

Mr. Vail: Yes, sir.

Examiner Burchmore: How long have you had it?

Mr. Vail: We got them in about ten days ago I believe

Examiner Burchmore: That is for the year 1911?

Mr. Vail: 1911, yes.

Examiner Burchmore: Did you have 1910 passes?

Mr. Vail: Yes, sir.

Examiner Burchmore: Where did you use that pass?

Mr. Vail: Between Cardwell and St. Louis.

Examiner Burchmore: Is that a convenient road to take from Cardwell to St. Louis?

Mr. Vail: Yes, sir.

Examiner Burchmore: Did you have that pass the entire year of 1910?

Mr. Vail: Yes, sir—No, not the entire year. We got that pass some time in February, wasn't it?

Mr. Merryman: I think it was.

Examiner Burchmore: They were a little slow in getting it to you?

Mr. Vail: Yes, very slow.

5905 Examiner Burchmore: Did you have one the previous year?

Mr. Vail: Yes, we had, we had one previous years.

Examiner Burchmore: Have you any other annual passes at the present time?

Mr. Vail: Yes, sir, I have the Alton, the Clover Leaf, Frisco, the Chicago, Milwaukee & Puget Sound, I believe is one, and some little minor roads.

Examiner Burchmore: Do you use those passes?

Mr. Vail: Do I use them?

Examiner Burchmore: Yes.

Mr. Vail: Yes, when I come into the city. I never have used a pass going west or north of St. Louis in my life.

Examiner Burchmore: Where is your home?

Mr. Vail: My home is in Decatur, Indiana.

Examiner Burchmore: Do you have annual passes that you can go from Decatur to Cardwell on?

Mr. Vail: Yes, sir, that is the Clover Leaf.

Examiner Burchmore: And also on which you can travel between St. Louis and your residence?

Mr. Vail: Yes, sir.

Examiner Burchmore: Has any railroad cut off your annual passes within the last year or two?

5906 Mr. Vail: Well, it is a little early now to state that. We feel in hopes that we will get them, but they are awful slow in coming.

Examiner Burchmore: There wasn't any road that refused you an annual last year?

Mr. Vail: Oh, yes, we were refused.

Examiner Burchmore: That had previously given you one?

Mr. Vail: Yes, I think so. I think the Wabash would not give us any last year. I never did have a pass over the Wabash. My brother at Washington, D. C. has one.

Examiner Burchmore: Did you have any difficulty with the Trunk Line railroads, the longer railroads last year and the year before in connection with your annual passes, did any of them cut them off and tell you you must not use them? Weren't you deprived of the use of free passes for a while?

Mr. Vail: No.

Examiner Burchmore: I thought I remembered you—I think it was you that was in Washington and talked with me a year ago or less and complained that you could not use your passes.

5907 Mr. Vail: That was my brother, S. N. He might have said this, that if we are put on the tap line list, why then we will not be able to get any passes, and it has been a question with the big railroads as to whether we are a common carrier or whether we are a tap line. For instance, we got word from the Missouri Pacific here last week, stating that just as quick as the Interstate Commerce Association said that you are a common carrier, we will freely grant you passes.

Examiner Burchmore: Did those other railroads want you to give them passes?

Mr. Vail: Oh, they sent in their request, yes, sir, for passes.

Examiner Burchmore: You have no difficulty in persuading them to ride over the road?

Mr. Vail: Not when they want to fish and hunt.

Examiner Burchmore: Then your road is used by railroad officials to come down to the finishing grounds?

Mr. Vail: Oh, yes, we have them annually.

Examiner Burchmore: Do you have any parlor cars on your line?

Mr. Vail: Cardwell is a great place to entertain these traveling freight agents.

5908 Examiner Burchmore: I want now to ask whether the officers of this railroad have annual passes over other railroads?

Mr. Vail: Our Mr. Merryman and F. N. Vail, and Dan Vail, the officers, have.

Examiner Burchmore: You travel around on these passes for these stave companies, don't you?

Mr. Vail: Never.

Examiner Burchmore: Have no active part in their management and direction?

Mr. Vail: Oh, I am the head of the concern and direct the policy under which they generally operate, but——

Examiner Burchmore: You never travel on their business?

Mr. Vail: My stuff is sold invariably f. o. b. car Cardwell, and

the bulk of it goes right here in the city of St. Louis, so that I have no need to do so.

Examiner Burchmore: I know, but you travel down here sometimes to look over the factory?

Mr. Vail: No, I am living down at Cardwell now, have been down there for——

Examiner Burchmore: You come up to St. Louis sometimes to talk with your people up here about staves?

5909 Mr. Vail: Oh, I come up here quite frequently. I know I was up here this week a couple of times.

Examiner Burchmore: I mean the passes are valuable to you as a stave manufacturer?

Mr. Vail: Yes, sir, the passes are valuable to me the same as they would be to anybody.

Examiner Burchmore: The same is true of your brother, I presume?

Mr. Vail: My brother, we have had him out on the road in the interest of the P. & M. Railroad exclusively for the last two years.

5910 Examiner Burchmore: What did he travel around for the railroad so much for?

Mr. Vail: Well we have been trying to negotiate a loan. We have run him from one point to another, New York, Boston, Philadelphia, and all over.

Examiner Burchmore: It seems to me your brother complained to me in his conversation at Washington, that it was quite a hardship in connection with the operation of the stave factory to be cut off in passes, and a disadvantage.

Mr. Vail: I would not know.

Examiner Burchmore: Could you imagine his making such a statement?

Mr. Vail: I would not know what reason he would make such a statement as that for.

Examiner Burchmore: In fact, I think he said it would be pretty near as bad to be cut off from the use of passes as to have your company cut off the price on staves.

Mr. Vail: Our Mr. Merryman can tell you whether or not there is anything like that.

Examiner Burchmore: What do you think about that, Mr. Merryman?

Mr. Merryman: Somebody had a pipe dream.

5911 Examiner Burchmore: I thought perhaps it was a fact.

Mr. Merryman: I am sure Vail would not say anything like that.

Examiner Burchmore: I know he felt rather badly about the passes, as I recall it.

Mr. Vail: A man that manufactures good cooperage stock don't have to take and run around over the country trying to sell it.

Examiner Burchmore: Who do you sell that stock to? Do you make an annual report to the Interstate Commerce Commission?

Mr. Vail: Yes, sir.

Examiner Burchmore: I think that is all I care to ask now.

Cross-examination:

Mr. McKay: Mr. Vail, the Decatur Egg Case Company are not in business now any more?

Mr. Vail: No, sir.

Mr. McKay: And have not been for some five years?

Mr. Vail: Five years about.

Mr. McKay: Not shipping anything over these lines?

Mr. Vail: No.

5912 Mr. McKay: The stave companies which you are interested in do not have any interest in the P. & M. Railroad, do they?

Mr. Vail: No.

Mr. McKay: Nor the P. & M. Railroad has no interest in the stave companies?

Mr. Vail: No, sir.

Mr. McKay: Except such as you happen to be individual holders in both companies?

Mr. Vail: Yes, sir.

Mr. McKay: No part of your salary as president of the P. & M. is paid by either of the stave companies, is it?

Mr. Vail: No, sir.

Mr. McKay: Or no part of your salary as an officer in the stave company is paid by the P. & M. Railroad?

Mr. Vail: Not a cent.

Mr. McKay: They have separate and individual accounts?

Mr. Vail: They do, and bank accounts too, have had from the day that they started.

Mr. McKay: Do you transport freight and passengers?

Mr. Vail: Yes, sir.

Mr. McKay: Do you solicit business other than the business which is controlled by the interests which you are directly connected

5913 with along your lines?

Mr. Vail: We do.

Mr. McKay: Do you ever refuse transportation to any freight or passengers?

Mr. Vail: No, sir.

Mr. McKay: You hold yourself out as common carriers?

Mr. Vail: Yes, sir.

Mr. McKay: And solicit business?

Mr. Vail: Yes, sir, we solicit business.

Mr. McKay: Do you publish a time table?

Mr. Vail: Yes, sir.

Mr. McKay: Do you publish rates and tariffs?

Mr. Vail: Yes, sir, we have our division sheets.

Mr. McKay: About what percentage of the business handled over your road originates on the interests in which you are interested?

Mr. Vail: Well, I will leave Mr. Merryman to give the details of that part of the business.

Mr. McKay: He is more familiar with the details of that than you?

Mr. Vail: Yes, sir, that is right.

Mr. McKay: Have you an agreement with the Frisco and
5914 the Cotton Belt heretofore as to divisions of freight shipped over your line?

Mr. Vail: Yes, sir.

Mr. McKay: Does the Frisco railroad charge the same rate to persons along their line from Paulding that they do all persons who ship over your line?

Mr. Vail: No, they give a cheaper rate.

Mr. McKay: They give a cheaper rate?

Mr. Vail: They give a cheaper rate.

Mr. McKay: In other words if you ship—if the shippers ship stuff over your line out to Paulding, they have to pay a higher rate than a party who happens to live on the line at Paulding?

Mr. Vail: Yes, sir.

Mr. McKay: That is all, I believe.

Direct examination:

Examiner Burchmore: Are you Mr. J. W. Vail?

Mr. Vail: Yes, sir.

Examiner Burchmore: You are, I understand, General Manager of the Buffalo Stave Company?

Mr. Vail: Yes, sir.

5915 Examiner Burchmore: Hold the same office on the Cardwell Stave Company?

Mr. Vail: Yes, sir.

Examiner Burchmore: You are President of the Cardwell Box Company?

Mr. Vail: Well, that is a defunct institution.

Examiner Burchmore: Yes, and you are President and General Manager of the railroad?

Mr. Vail: Yes, sir.

Examiner Burchmore: I want to ask you if as the result of this proceeding or say in the end your railroad were to go on doing business as a common carrier on interstate shipments, your rates were so adjusted that a shipper on that line would have to pay something more than the local rate on the Frisco, say a combination of the locals was made, what would be the effect on your railroad of the necessity of charging the sum of the locals?

Mr. Vail: Well I don't know as it would make any difference, I mean particular difference on our railroad, for the simple reason that we are hauling now under our divisions, and of course if they were cancelled we would simply have to increase them, which we would do, but it would work a hardship on the manufacturers
5916 along our line.

Examiner Burchmore: Is it an interstate movement from Cardwell to St. Louis?

Mr. Vail: Yes, sir.

Mr. McKay: Not from Cardwell to St. Louis, it does not have to pass through——

Examiner Burchmore: It is all within Missouri?

Mr. Vail: Yes, that is right.

Examiner Burchmore: It is all within the state?

Mr. Vail: It would not be when you moved by way of the Cotton Belt. The Cotton Belt would be interstate.

Examiner Burchmore: Your line runs down into Arkansas?

Mr. Vail: Yes, sir.

Examiner Burchmore: Does it connect with any other railroad in Arkansas?

Mr. Vail: The J. L. C. & E. at Manilla.

Examiner Burchmore: Do you have a physical rail connection?

Mr. Vail: No, sir, we have our crossing put in there, but we are not connected up with a Y.

Examiner Burchmore: How long ago did you put in that crossing?

5917 Mr. Vail: It has been in now about a year.

Examiner Burchmore: Then there is no way by which an engine or train could pass from one railroad to the other?

Mr. Vail: No.

Examiner Burchmore: You team the stuff that you interchange there, don't you?

Mr. Vail: Yes, sir.

Examiner Burchmore: Charge anything for teaming?

Mr. Vail: No, sir.

Examiner Burchmore: Free transfer?

Mr. Vail: Yes, sir.

Examiner Burchmore: Who bears the cost of the teaming?

Mr. Vail: The man that loads the stuff.

Examiner Burchmore: You charge your local rates for the material?

Mr. Vail: No, we have a division with the Frisco.

Examiner Burchmore: How do you charge the shipper for the transfer?

Mr. Vail: You asked if we paid the teamster for hauling the products on our line, and I said no.

Examiner Burchmore: Suppose a shipment originates on

5918 your line, I don't care, at any point, take Cardwell, and it is going via Manilla and the J. L. C. & E. to some point, what rate do you charge that line, do you have a through rate?

Mr. Merryman: Yes, sir, we have a through rate.

Examiner Burchmore: Who pays the teamsters?

Mr. Merryman: It is absorbed by the two railroads, the J. L. C. & E. and the P. & M.

Examiner Burchmore: That is all I want to know. Do you hire a teamster all the time?

Mr. Merryman: Have a regular drayman there, yes, sir.

Examiner Burchmore: That is all I care to ask you, Mr. Vail, at this time.

Mr. McKay: That is all, I believe, now.

C. A. MERRYMAN was called as a witness, and having been duly sworn, testified as follows:

Direct examination:

Examiner Burchmore: Mr. Merryman, what is your connection with the railroad?

Mr. Merryman: Auditor.

Examiner Burchmore: Do you work for anybody else?

5919 Mr. Merryman: No, sir.

Examiner Burchmore: Your duties with this railroad relate purely to accounts?

Mr. Merryman: And I publish the rates too.

Examiner Burchmore: You are a traffic officer, too?

Mr. Merryman: Yes, sir.

Examiner Burchmore: You keep your accounts in accordance with the system prescribed by the Interstate Commerce Commission?

Mr. Merryman: As near as I can, yes, sir.

Examiner Burchmore: What rate of depreciation do you charge?

Mr. Merryman: We never have charged off any depreciation at all.

Examiner Burchmore: The rules of the Commission require it.

Mr. Merryman: Yes, sir.

Examiner Burchmore: What is the explanation for your failure to charge depreciation?

Mr. Merryman: Well one reason that we never charged off any depreciation, that there has not any been charged off, is because

5920 that we rebuilt about two years ago, and most all the tracks there were really in better shape after the rebuilding than they were when we bought the track, and the same way with our locomotives.

Examiner Burchmore: You ought to charge depreciation on them.

Mr. Merryman: There really should be, and I am trying to arrange my books so that I can give an exact accounting for this year.

Examiner Burchmore: You do not understand that the Commission prescribes any particular rate of depreciation?

Mr. Merryman: I understand.

Examiner Burchmore: You don't have anything to do with the operating of this railroad?

Mr. Merryman: In a way, yes.

Examiner Burchmore: The conductors report to you, you mean?

Mr. Merryman: Yes, sir.

Examiner Burchmore: You don't have anything to do with the running of trains?

Mr. Merryman: Well, I assist Mr. Vail, yes, sir.

Examiner Burchmore: Who is general superintendent of the road, the man that orders things done?

5921 Mr. Merryman: John Green.

Examiner Burchmore: Is he present?

Mr. Merryman: No, sir.

Examiner Burchmore: Does he work for anybody else?

Mr. Merryman: No.

Examiner Burchmore: Does this railroad lease any track?
Mr. Merryman: No, sir.
Examiner Burchmore: Don't they lease——
Mr. Merryman: Well, we lease some siding there at the P. S. E. Railroad.
Examiner Burchmore: Will you show the location of that leased track on your map, so I can see just where they are?
Mr. Merryman: I will.
Examiner Burchmore: What do you pay for that track?
Mr. Merryman: We pay $5.00 a month.
Examiner Burchmore: Do you always pay?
Mr. Merryman: Yes, sir.
Examiner Burchmore: Do you have any contracts with the Paragould South-Eastern covering that track?
Mr. Merryman: Yes, sir.
Examiner Burchmore: We would like a copy of that contract, if you please.
5922 Mr. Merryman: We entered into a new contract and I think we pay nine dollars. It was five and then it was raised to nine.
Examiner Burchmore: Are the two contracts the same except with respect to the amount of the payment?
Mr. Merryman: I think they are.
Examiner Burchmore: You can furnish us with either one or both contracts, as you prefer.
Mr. McKay: We will furnish you with both of them.
Examiner Burchmore: What is the distance from the factory or plant of the Buffalo Stave Company to your junction with the Iron Mountain?
Mr. Merryman: We have no connection with the Iron Mountain
Examiner Burchmore: I mean with the Cardwell & South-Eastern?
Mr. Merryman: About ten miles.
Examiner Burchmore: How far over to the Frisco?
Mr. Merryman: Six.
Examiner Burchmore: It is a little under five, isn't it?
Mr. Merryman: Sir?
Examiner Burchmore: About five, isn't it?
5923 Mr. Merryman: I believe it is 8.96 is the exact mileage. I think from Geneva to Cardwell I think it is 8.92.
Examiner Burchmore: From what company did you say?
Mr. Merryman: You said from the Buffalo?
Examiner Burchmore: I have the mileage from the Buffalo Stave Company to the Frisco, as 4.84 miles.
Mr. Merryman: The road is 17.7 miles main line and 7.92.
Examiner Burchmore: I will tell you, you might show on that statement your different industries. You might indicate the distance of each industry from the Frisco and from the Cotton Belt and from the J. L. C. & E. so we can have it right before us.
Mr. Merryman: All right.
Examiner Burchmore: How many locomotives do you own?
Mr. Merryman: Two.

Examiner Burchmore: Operate them both?
Mr. Merryman: No, sir, only operate one.
Examiner Burchmore: The other is for relief?
Mr. Merryman: Yes, sir.
Examiner Burchmore: How many train crews have you?
Mr. Merryman: One.
Examiner Burchmore: Make one round trip a day?
5924 Mr. Merryman: Make one round trip on the main line from Cardwell to Manilla; we make one trip from Cardwell to Roller, Arkansas, and we make a trip in the evening from Cardwell to Paulding.
Mr. McKay: We connect in the evening with the Frisco going north.
Mr. Merryman: We make connections with the Frisco and the J. L. C. & E.
Examiner Burchmore: You may file a copy of your time table, if you care to.
Mr. McKay: Yes, sir.
Examiner Burchmore: You have how many passenger cars?
Mr. Merryman: One.
Examiner Burchmore: Have a caboose?
Mr. Merryman: Yes, sir.
Examiner Burchmore: Those trains are mixed trains, or passenger?
Mr. Merryman: They are mixed.
Examiner Burchmore: Do you run any purely freight trains?
Mr. Merryman: On the spurs.
Examiner Burchmore: With what frequency?
Mr. Merryman: Every day.
5925 Examiner Burchmore: One train a day?
Mr. Merryman: Yes, sir.
Examiner Burchmore: How many freight cars have you?
Mr. Merryman: We have got about—we had 73, 20 of them under lease, 53, and there is about 30 of them left, about 20 I think got to be rebuilt.
Examiner Burchmore: From whom do you lease those cars?
Mr. Merryman: They are leased of the Cardwell Mill and Lumber Company.
Examiner Burchmore: Cardwell Mill and Lumber Company?
Mr. Merryman: Yes, sir, they own their own equipment.
Examiner Burchmore: That is a new company, I have not heard of them. Who are they?
Mr. Merryman: It was discussed a while ago. It was the defunct institution that we were talking about that went into the hands of a receiver.
Mr. McKay: The Lawson Lumber Company, I believe Mr. Vail called it.
Mr. Vail: No, the Cardwell Mill and Lumber Company I called it.
Examiner Burchmore: Is Mr. Vail interested in that company?

5926 Mr. Merryman: No, sir.

Examiner Burchmore: What do you pay for those cars?

Mr. Merryman: Nothing.

Examiner Burchmore: Lease them for nothing?

Mr. Merryman: Yes, sir, we pay in this way. We keep up the repairs on the cars and they keep those cars in their own service.

Examiner Burchmore: What use is made first of those cars?

Mr. Merryman: Four hauling timber.

Examiner Burchmore: From where to where?

Mr. Merryman: From their tracts of timber into Cardwell.

Examiner Burchmore: Those are logging cars, are they?

Mr. Merryman: Yes, sir, flat cars, standard flat cars.

Examiner Burchmore: What do you charge them for hauling those logs in?

Mr. Merryman: The same rate that we charge all other shippers.

Examiner Burchmore: What is that rate?

Mr. Merryman: $1.75 on gum, sycamore and cypress, and $2.00 a thousand or two cents a hundred on oak and ash.

Examiner Burchmore: Do you haul their lumber out?

Mr. Merryman: Yes, sir.

5927 Examiner Burchmore: In all cases?

Mr. Merryman: Yes, sir.

Examiner Burchmore: Wherever it is going?

Mr. Merryman: Yes, sir.

Examiner Burchmore: What do you charge them for hauling the lumber out?

Mr. Merryman: We charge them the regular published through tariff rate.

Examiner Burchmore: What is your division on that rate?

Mr. Merryman: It is according to where the shipment is moved.

Examiner Burchmore: I mean what is the line of division, one to five cents or what?

Mr. Merryman: We get all the way from two to four cents on a car.

Examiner Burchmore: What is your St. Louis division?

5928 *Examiner Burchmore: What is your St. Louis Division?*

Mr. Merryman: According to the product, from three to three and a half.

Examiner Burchmore: Where does most of the stuff go, all over the country?

Mr. Merryman: All over the country, yes, sir.

Examiner Burchmore: What would be your average division?

Mr. Merryman: The average division is about three cents.

Examiner Burchmore: How far do you haul that lumber?

Mr. Merryman: We haul that lumber from a mile to four.

Examiner Burchmore: One mile to four?

Mr. Merryman: Yes, sir.

Examiner Burchmore: Are those rates on a milling in transit basis?

Mr. Merryman: They are not.

Examiner Burchmore: You don't refund the charge, any part of the inbound charges?

Mr. Merryman: No, sir.

Examiner Burchmore: That is true of all the logs that you handle?

Mr. Merryman: Yes, sir.

5929 Examiner Burchmore: You have no milling in transit rates at all?

Mr. Merryman: No, sir—I believe in Tariff C. & E. I. 2800-A they have a milling in transit rate from Cardwell to Mount Vernon.

Examiner Burchmore: Well, but the milling in transit is not on your line?

Mr. Merryman: No. You understand that on this rate of 1¾ cents on gum and sycamore and 2 cents on oak, you understand that we give them that rate provided they give us the out haul.

Examiner Burchmore: That is a kind of a proportionate rate in there?

Mr. Merryman: Yes, sir, that is it exactly.

Examiner Burchmore: Will they always give you the outhaul?

Mr. Merryman: Yes, sir.

Examiner Burchmore: What would you charge them if they did not?

Mr. Merryman: It would be a cent higher.

Examiner Burchmore: One cent higher?

Mr. Merryman: Yes, sir.

5930 Examiner Burchmore: If we found that the joint tariffs contained a milling in transit privilege, your answer would be that there is no milling in transit actually performed on your line?

Mr. Merryman: No, sir, there is not.

Examiner Burchmore: Do any logs move off of the line?

Mr. Merryman: Yes, there are a few, not very many.

Examiner Burchmore: What use is made of the freight cars that you own as distinguished from those that you lease?

Mr. Merryman: We use ours to—our logging cars are used by Walker & Company, and by the John Green mills.

Examiner Burchmore: Are they used for hauling logs?

Mr. Merryman: Hauling logs or lumber locally, or any other product that we might happen to get hold of from anyone.

Examiner Burchmore: You charged them the same rate that you referred to?

Mr. Merryman: Absolutely, yes, sir.

Examiner Burchmore: Do any of those cars go off of the line into use all over the country?

Mr. Merryman: No, sir, we run them—some we have interchanged with the Frisco as far as Kewanee.

5931 Examiner Burchmore: You confine your cars to your own tracks?

Mr. Merryman: Practically confine them to our own tracks, yes.

Examiner Burchmore: For taking a movement over the Frisco or the Cotton Belt, you require those companies to furnish the cars?

Mr. Merryman: Yes, sir.

Examiner Burchmore: Do you pay a per diem?

Mr. Merryman: We do.

5932 Examiner Burchmore: Can you give me figures as to the amount and character of your freight tonnage?

Mr. Merryman: How is that?

Examiner Burchmore: Can you give me figures as to the amount and character of your freight tonnage?

Mr. Merryman: Yes, sir. I have it right here. You mean the diversified tonnage?

Examine Burchmore: I mean all the tonnage of the road, all the items. If you will put the statement in evidence I will just ask you to give the details. I would ask that you file this statement as Exhibit No. 1.

(The statement so offered and identified was received in evidence and thereupon marked "Merryman's Exhibit No. 1, received in evidence January 27, 1911," and is attached hereto.)

Examiner Burchmore: The total freight tonnage—this is for what year?

Mr. Merryman: This is for this last year, June 30, 1910.

Examiner Burchmore: Did you prepare this statement?

Mr. Merryman: Yes, sir.

Examiner Burchmore: It is correct?

Mr. Merryman: As near as I know, yes, sir.

5933 Examiner Burchmore: It agrees with your annual report?

Mr. Merryman: Yes, sir, it does.

Examiner Burchmore: It shows the total freight tonnage inbound and outbound, as 77,289 tons.

Mr. Merryman: Yes, sir.

Examiner Burchmore: Inbound and outbound?

Mr. Merryman: Yes, sir.

Examiner Burchmore: Of which 75,470 tons was lumber and logs?

Mr. Merryman: Yes, sir, lumber, logs and both, shipped in there.

Examiner Burchmore: And the balance was agricultural products, 712 tons of live stock, 62 tons of coal, 404 tons miscellaneous. Manufactures, 66 tons; merchandise, junk and so forth, 575 tons.

Mr. Merryman: Yes, sir.

Examiner Burchmore: The statement seems to indicate that 97.63 per cent of the total was what might be called forest products?

Mr. Merryman: Yes, sir.

Examiner Burchmore: Have you any statements showing how much tonnage was furnished by the different companies that

5934 we have referred to? Of the stave companies?

Mr. Merryman: Well, I will tell you. I have a statement which was gotten out at the time that your inspector came to Cardwell and inspected our records. It was 18 per cent at that time.

Examiner Burchmore: 18 per cent of what?

Mr. Merryman: Of the total tonnage.

Examiner Burchmore: Was furnished by whom?

Mr. Merryman: By the Cardwell Stave Company and the Buffalo Stave Company in which Mr. Vail had an interest.

Examiner Burchmore: That was for the fiscal year ending 1909, wasn't it?

Mr. Merryman: Yes, sir.

Examiner Burchmore: How about the year 1910?

Mr. Merryman: That I cannot tell you.

Examiner Burchmore: The same percentage, about?

Mr. Merryman: No, sir, not near as much.

Examiner Burchmore: You mean it would be 14, 12, or lower than 18?

Mr. Merryman: Yes, sir, it would be lower.

Mr. McKay: You could explain that, couldn't you?

Mr. Merryman: I could, yes.

5935 Examiner Burchmore: I would be glad to know how much each of the companies named had purchased in the last year.

Mr. McKay: We will try to give it to you covered in a statement.

Examiner Burchmore: I desire to know simply the operating expenses and the revenue and the net earnings for the last year.

Mr. McKay: They are in there, too.

Examiner Burchmore: The operating revenues on this statement are $38,942.42.

Mr. Merryman: That is right.

Examiner Burchmore: And the expenses, $30,589.67.

Mr. Merryman: That is right.

Examiner Burchmore: Making the profit derived from the operation of $8,352.75?

Mr. Merryman: Yes, sir.

Examiner Burchmore: I see you have taxes, $894.59?

Mr. Merryman: Yes, sir.

Examiner Burchmore: I thought you said you were not going to pay any taxes?

Mr. Merryman: Well, this was taxes paid in Arkansas. This was from last year's report.

5936 Examiner Burchmore: Are you going to pay taxes in Missouri?

Mr. Merryman: Well, we intend to pay taxes but we do not intend to pay what they have got us assessed at if there is any way out of it. They have got us assessed higher than the P. & S. E. Railroad, a branch of the Frisco.

Examiner Burchmore: Your operating ratio is 77 per cent?

Mr. Merryman: Yes, sir.

Examiner Burchmore: Do you desire, Mr. Merryman or Mr. McKay,—do you desire to put all these statements in evidence?

Mr. McKay: We will file them all in evidence, yes, sir, if it won't encumber the record.

Examiner Burchmore: I think they may all be received and filed, if you will mark them in order, Mr. Reporter.

(The statements so offered and identified were received in evidence and thereupon marked respectively "Merriman Exhibits num-

bers 2, 3, 4, 5, 6, and 7, received in evidence January 27, 1911," and are attached hereto.)

Examiner Burchmore: Do you get and file tariffs at your stations?

Mr. Merryman: Yes, sir.

5937 Examiner Burchmore: How long have you had them there?

Mr. Merryman: Ever since the Commission issued those rulings.

Examiner Burchmore: You have an agent at Manila, Arkansas?

Mr. Merryman: Yes, sir.

Examiner Burchmore: Has he got a file of tariffs?

Mr. Merryman: Yes, sir.

Examiner Burchmore: How long has he had it?

Mr. Merryman: He has had it, I think, about two years, I don't remember exactly. He was given a file of tariffs at the same time that the agents at Cardwell and Paulding were given them.

Examiner Burchmore: Our examiner reports in November, 1909, that the agent at Manila did not have any tariffs; he reports that you did not have any tariffs showing the rates with the Paragould, Southeastern, and the Jonesboro——

Mr. Merryman: He certainly had a copy of all the tariffs I had.

Examiner Burchmore: He stated, according to this report—the agent explained to the examiner that he billed his freight to

5938 the Paragould Southeastern points by using local rates to Cardwell, Missouri, and at that point the freight is rebilled. Is that correct?

Mr. Merryman: Well, no. The rate must apply, the local rate in many instances, but we always rebill shipments at Cardwell.

Examiner Burchmore: You mean re-waybill them?

Mr. Merryman: Re-waybill them, yes, sir.

Examiner Burchmore: Do you have a tariff on file of your own issuance with the Interstate Commerce Commission?

Mr. Merryman: Yes, sir.

Examiner Burchmore: In your opinion, you comply with every requirement of the Act governing interstate commerce?

Mr. Merryman: As near as we possibly can.

Examiner Burchmore: You have safety couplers all over?

Mr. Merryman: Yes, sir, we use them on our engines and on our coaches.

Examiner Burchmore: Do your employés obey the Hours of Service law?

Mr. Merryman: Yes, sir, I make a report of that every month.

Examiner Burchmore: Do any special trains run over your line?

5939 Mr. Merryman: No—Oh, there have been a few.

Examiner Burchmore: I mean passenger trains.

Mr. Merryman: Yes, sir, there have been a few; none within the last year.

Examiner Burchmore: You heard Mr. Vail's testimony. Was there any correction you would make in that testimony other than the corrections interposed, or is it substantially correct as you understand it?

Mr. Merryman: Why, yes.

Examiner Burchmore: What about the Vail Heading Company?

Mr. Merryman: They have dismantled their mill and it is not in business any more, as I understand it. The machinery has been moved away to a point called Hornersville on the P. & S. E. Railroad.

Examiner Burchmore: Machinery moved over to that railroad?

Mr. Merryman: Yes, sir.

Examiner Burchmore: Who owns that railroad?

Mr. Merryman: It is a branch of the Cotton Belt known as the Paragould Southeastern.

Examiner Burchmore: Does Mr. E. A. Vail take any active part in the affairs of this railroad?

5940 Mr. Merryman: No, sir.

Examiner Burchmore: When you receive traffic from the Buffalo Stave Company or the other companies in which Mr. Vail is interested, do you receive any routing instructions from those shippers?

Mr. Merryman: Sometimes we do and sometimes we don't.

Examiner Burchmore: They usually leave the traffic unrouted, don't they?

Mr. Merryman: Why, sometimes they do.

Examiner Burchmore: They usually give no routing instructions?

Mr. Merryman: Quite often they put their routing instructions on the bill of lading.

Examiner Burchmore: Do you always obey them implicitly?

Mr. Merryman: As nearly as we possibly can.

Examiner Burchmore: Don't you handle the traffic furnished by those industries in such a way as to get the best divisions of the rates that you can?

Mr. Merryman: Well, they usually ask for a car and if we possibly can, if we receive a better division over the Frisco on the shipment, why, we route it Frisco. We simply give them a Frisco car, because practically the same rates do apply by way of

5941 the Frisco as the Cotton Belt.

Examiner Burchmore: Isn't it a fact that it frequently happens that a carload of material originating at Cardwell and shipped by the Buffalo Stave Company—Are they in business now?

Mr. Merryman: No, they are not in business.

Examiner Burchmore: What company is in business?

Mr. Merryman: The Cardwell Stave Company.

Examiner Burchmore: Shipped by the Cardwell Stave Company originating at Cardwell, moves over your line down to the junction of the Frisco and then out, instead of moving over to the junction with the Cotton Belt and going out over a more direct route? That is, isn't there frequently an unnatural or indirect routing of traffic in order that you may—your company may get a better division?

Mr. Merryman: There is none, no, for the simple reason that this shipment moving out over the Frisco will get to St. Louis, with the Mississippi River Crossing, as quick as and quicker than if you take it by way of the P. S. E. on the Cotton Belt.

Examiner Burchmore: Is there any stave factory at Geneva?

5942 Mr. Merryman: Not now.

Examiner Burchmore: How recently was there a factory?

Mr. Merryman: They are still jointing staves at that point, I think.

Examiner Burchmore: Suppose a carload of staves were shipped from Geneva, destined to St. Louis, and the rate is 14 cents.

Mr. Merryman: The rate was 15 cents.

Examiner Burchmore: How would that move?

Mr. Merryman: Move either by way of the Frisco to the junction at Paulding, Missouri, or by way of Cardwell over the P. S. E.

Examiner Burchmore: Suppose it goes by Paulding and the Frisco, what division would you receive?

Mr. Merryman: Four and a half.

Examiner Burchmore: And that goes at a through rate of 15 cents?

Mr. Merryman: Yes, sir.

Examiner Burchmore: Suppose it goes via Cardwell, what rate would you charge?

Mr. Merryman: Four and a half—What rate would we charge?

5943 Examiner Burchmore: Yes.

Mr. Merryman: The same rate.

Examiner Burchmore: Would you receive four and a half cents?

Mr. Merryman: Yes, sir.

Examiner Burchmore: How long has that been true?

Mr. Merryman: That has been true about ever since I have been with the company, I think about four or five years.

Examiner Burchmore: Wasn't the rate to St. Louis over your line 14 cents?

Mr. Merryman: No, sir.

Examiner Burchmore: Wasn't your division formerly three cents?

Mr. Merryman: How long ago?

Examiner Burchmore: A year or so ago.

Mr. Merryman: No, sir, we have always received that division as long as I have been with them, received a division of four and a half or five, Geneva to St. Louis.

Examiner Burchmore: I would like to know if this has ever been the practice: instead of billing shipments from Geneva to St. Louis, through from point of origin to destination, moving it via the Belt and Frisco, has such shipment ever been billed to Cardwell

5944 on your local rate and on arrival at Cardwell a new bill of lading issued, the local rate paid up to Cardwell, and the traffic hauled back again to Paulding and delivered to the Frisco on through billing, showing Cardwell as the point of origin, not Geneva, and St. Louis as the destination, and giving you a three cent division out of this second movement, so that instead of getting your three or four cent division out of the Geneva to St. Louis rate, you get your local rate from Geneva to Cardwell plus a three or four cent division of the joint rate from Cardwell to St. Louis given by the Frisco; in other words, getting six or seven cents out of the total rate instead of

your regular local out of the joint rate and creating an unnatural movement of the car?

Mr. Merryman: We did, yes, sir.

Examiner Burchmore: How often did you do that, or when?

Mr. Merryman: Oh, that was done—that was going on at the time that that agent was there, and I reported that to him, told him and asked him if there was any ruling against doing that.

Examiner Burchmore: Well, is there any explanation you care to make of that?

5945 Mr. Merryman: Any explanation?

Mr. Burchmore: Yes, as to the frequency with which you did it.

Mr. Merryman: We simply did it because we derived more revenue out of that business by doing it.

Examiner Burchmore: I understand.

Mr. Merryman: And the through rate was not affected.

Examiner Burchmore: The shipper paid the same through rate?

Mr. Merryman: Yes, sir.

Examiner Burchmore: Was that done with any traffic that was shipped by the industries in which Mr. Vale has any interest?

Mr. Merryman: No, there wasn't any other point it could have been done, there wasn't any other shipper out there at that point.

Examiner Burchmore: All of the competitive business, that is, business that could move over either the Frisco or Cottonbelt you routed as via Frisco because its divisions were larger than the Cottonbelt?

Mr. Merryman: Not always, no.

Examiner Burchmore: Whenever you can you move via

5946 the Frisco?

Mr. Merryman: No, not always. We divide it. Sometimes we give the Cotton Belt part of our shipment in order to enjoy service in car shortage. We felt it was only right to give them a portion of the business because they helped take care of us.

Examiner Burchmore: The operating expenses that you referred to a few moments ago for the last fiscal year, the previous fiscal year, the operating expenses as I have the figures, were $41,889.38. That was for the fiscal year 1909. That seems to be quite a high operating expense. Did you include in that any items for betterments for the line?

Mr. Merryman: No, I want to tell you about that. There was for two or three years there that—for the last two or three years that we have been continually bettering our roadbed, and the bridges have been piled, and a better class of ties have been put in.

Examiner Burchmore: You have spent some $41,000 on it?

Mr. Merryman: Yes, instead of putting that in the betterment account, it was placed in the operating expense; in the last year's report you will notice that we have a betterment account of $20,000.

That was not itemized, and that is my explanation of that,

5947 simply used in operating expenses.

Examiner Burchmore: You also spent some $2,500 or $3,000 for rebuilding second hand locomotives?

Mr. Merryman: Yes, sir.

Examiner Burchmore: The track which your company leases from the Cotton Belt system leads, as I understand it, from the Cardwell Stave Company to the Cotton Belt rails?

Mr. Merryman: Connects up with our track about 60 feet east west of the Cardwell Stave Company's plant.

Examiner Burchmore: What is the object of leasing that track?

Mr. Merryman: Well, I believe Mr. Vale probably is more familiar, but I believe I can explain it. When the Decatur Egg Case Company located at Cardwell, they entered into some arrangement with the P. S. E. Railway Company for the use of a siding, or the P. S. E. Railway Company agreed to put in this siding provided the Decatur Egg Case Company would pay them five dollars a month for the use of the track, and that arrangement was handed over to the P. & M. Railroad Company, and it has been kept up ever since.

5948 Examiner Burchmore: You made the same arrangement the Egg Case Company previously had?

Mr. Merryman: Yes, sir, made with the railroads?

Examiner Burchmore: Which was satisfactory to the Egg Case Company and was satisfactory to this railroad company?

Mr. Merryman: How is that?

Examiner Burchmore: An arrangement that was satisfactory to the Egg Case Company, previously, was satisfactory to this railroad company when it came into possession?

Mr. Merryman: I don't know whether it was or not. I was not with the company at that time. I presume it was.

Examiner Burchmore: I was just placing an interpretation on your answer, that is all.

Mr. Merryman: Yes.

Examiner Burchmore: Is it essential to the properity of this railroad that it should have a joint through rate with the Frisco and Cotton Belt that is the same in amount as the local rates of the Cotton Belt and the Frisco from the territory down there, or could you prosper with the existence of a joint rate equal to the sum of the local rates, out of which you would receive your local rate division?

5949 Mr. Merryman: No, sir. I don't think we could, because the rates in the immediate territory of Paragould, Blytheville and Leachville would be a great deal less than our combination, and we would not be able to compete from—our manufacturers would not be able to compete with those manufacturers along those other railroads.

For example, the present rate of freight from Manilla, Arkansas to St. Louis is 15 cents. If these rates were cancelled it would take a combination rate of 3½ cents on our line and 13½ cents on the Cotton Belt, which would make a total through combination of 17 cents, and that would be an increase of 200 cents per 100 pounds.

Examiner Burchmore: What is the Frisco's local rate from Paulding?

Mr. Merryman: Twelve and a half cents.

Examiner Burchmore: Then you have been charging two and a half cents more than the local rate of the Frisco?

Mr. Merryman: How is that?

Examiner Burchmore: Then you have been charging two and a half cents higher than the Frisco's rate?

Mr. Merryman: Yes.

Examiner Burchmore: In a sense then you have been charging a combination of locals.

5950 Mr. Merryman: It is not a combination of locals, because the two and a half cents difference is less than our local rate.

Examiner Burchmore: Did I ask you whether the joint rates are the same from points on your line, that the local rates of the Frisco are?

Mr. Merryman: They are not, no, sir.

Examiner Burchmore: How much higher?

Mr. Merryman: They are two cents higher now.

Examiner Burchmore: Have been for how long?

Mr. Merryman: Since January 5th of this year.

Mr. McKay: As we understood it there was information gotten out that they were going to cancel these rates and they cancelled this rate January 5th, and then increased the rate into St. Louis one cent.

Examiner Burchmore: That is a state rate, though, exclusively?

Mr. Merryman: Yes, sir.

Examiner Burchmore: Your intrastate rates are just the same?

Mr. Merryman: Yes, sir. They increased it one cent, making the rate 14-½ cents off of our line, 12-½ from Paulding on

5951 their line.

Examiner Burchmore: Your joint rates have always been higher than the Frisco local rates in that territory?

Mr. Merryman: They have not, no, sir.

Examiner Burchmore: That is what I want to get at.

Mr. Merryman: The rate about two years ago was the same to Thebes, Illinois, a rate of 10 cents, but the St. Louis rate has always been a cent and a half higher up to a short time ago, and they have made an increase now and it is two cents higher.

Examiner Burchmore: That forced you to raise the rates?

Mr. Merryman: The Cotton Belt raised it in the first place and it required the Frisco to meet the increase.

Examiner Burchmore: That had no relation to this proceeding?

Mr. Merryman: No, it was done before that.

Examiner Burchmore: Could you conveniently give us the total amount of freight originating on each station on your line and delivered to shippers at each station on your line, a statement of tonnage by stations?

Mr. Merryman: I can get that up, yes, sir, but I haven't it here.

5952 Examiner Burchmore: If you could get that up and make that statement show the forest products in one column and the other freight in another column, classified any way you wanted.

I want simply the forest products and other freight, and if that will not be too much of you, we would like to have it. Those are the only things that occur to me, Mr. McKay.

Mr. McKay: Mr. Merryman, you maintain a station at Cardwell for passengers and freight?

Mr. Merryman: Yes, sir.

Mr. McKay: You maintain a joint station out at Paulding?

Mr. Merryman: Yes, sir.

Mr. McKay: Together with the Frisco?

Mr. Merryman: Yes, sir.

Mr. McKay: You pay part of the expenses for maintaining and operating that station?

Mr. Merryman: We pay half of it, yes, sir.

Mr. McKay: You also maintain a station and have an agent at Manilla, Arkansas?

Mr. Merryman: Yes, sir.

Mr. McKay: You pay your employés about the usual rate of employés' wages?

5953 Mr. Merryman: Yes, sir.

Mr. McKay: Comply with the law requiring certain hours to be kept?

Mr. Merryman: Yes, sir.

Mr. McKay: Have equipped your engines and freight cars with the appliances required by the Interstate Commerce Act?

Mr. Merryman: Yes, sir.

Mr. McKay: Do you consider the differential in the freight received by you from the other railroads in shipping freight over your road to points on their road commensurate with the labor you perform?

Mr. Merryman: I do not think they are any too high, not enough.

Mr. McKay: You don't think they are any too high?

Mr. Merryman: No, sir.

Mr. McKay: I don't think of any more, Mr. Commissioner.

Examiner Burchmore: If anything further occurs to you I guess you are at liberty to indicate it, or any corrections in your testimony, but I think we have a good deal of information already in the record in the shape of a statement by Mr. Vail, and also in the shape of our regular reports.

5954 Mr. McKay: You are through with us, we may go?

Examiner Burchmore: I am. If you desire to write a brief you understand what the Commission's arrangement is on that.

Mr. McKay: Yes.

Examiner Burchmore: Your briefs would be due March 1st. It is understood that the briefs will be limited to one of ten printed pages, and any questions there might be concerning the briefs should be taken up with the secretary of the Commission.

Mr. McKay: That must be filed with the Commission on or before March 1st?

Examiner Burchmore: Yes.

Mr. McKay: Is it optional with the company whether they file a brief or orally argue the case?

Examiner Burchmore: We cannot give you an opportunity to argue the case orally, but limit it to a brief.

You are not required to file a brief, but it might be well to do so.

5955 *Mississippi, Arkansas & Western Railway.*

HOWARD W. COLES was called as a witness, and being duly sworn, testified as follows:

Direct examination:

Examiner Burchmore: What is your name?

Mr. Coles: Howard W. Coles.

Examiner Burchmore: In the case of Theodore Fathauer Company vs. The St. Louis, Iron Mountain & Southern Railway Company, decided by the Commission on June 2, 1910, some testimony was taken respecting this road, the Mississippi, Arkansas & Western, and the Commission said that the allowance made by the defendant, the Iron Mountain, to the tap line company, the Mississippi, Arkansas & Western, was clearly prohibited by the principles laid down in the Star grain case. I would like to ask to have it stated into this record at this point how extensive the testimony was that was offered in that proceeding with respect to the character of this road and its operations.

Mr. Jones: I think it was pretty general, was it not, Mr. Jeffery? You conducted that case more than I did.

Mr. Jeffery: Why, your honor, I appeared down at Little
5956 Rock, Arkansas, and the Mississippi, Arkansas & Western was represented by Mr. Percy of Arkansas. I would say that they only went into the character of the road in a very general way, and I had always assumed myself, without endeavoring to pass on it, whether it was a common carrier or not—I had always assumed that the decision must have been written with the idea that they had other testimony or other examinations before them at the time other than what was given there, because the point involved in that case was not whether this company was entitled to divisions, or whether it was a common carrier. The sole question was whether the charge of one cent that it levied itself as a common carrier on lumber sent to Theodore Fathauer in Chicago was an excessive charge.

Mr. Jones: That is all. The balance was outside of the case.

Examiner Burchmore: Let me state my understanding of the case, what I really know about it. I have never seen the testimony in the case, but my impression is it was heard before Examiner McCornack. As I recall the facts in this case, along in 1907 or 1908, at least a long time ago, the Fathauer Company wrote to the Commission in an informal way and I re-
5957 member answering the letter, or having a part in the answer, and the trouble they complained about, an employé or representative of their company had gone down to Shults to buy some

lumber, and examined it, it was stacked up in the yards of this Bliss-Cook Oak Company at Shults. He looked it over, decided they were not too many, not more than he needed, and he bought those piles of lumber and he saw them loaded on freight cars on the Iron Mountain. He went away and the lumber in due time arrived in Chicago. When their traffic department cashier came to check over the expense bills situated in Chicago, he discovered that the Iron Mountain had charged him, not the regular rate from Shults on the Iron Mountain to Chicago, but a rate one cent higher.

Mr. Jeffery: Just a second, your honor. It was not the Iron Mountain that levied the rate. It was the two roads together. You see, Shults is on the Mississippi, Arkansas & Western.

Examiner Burchmore: I understand, but this, as I recall it, was when the shipment arrived in Chicago, it was the last road here——

Mr. Jeffery: The Wabash.

5958 Examiner Burchmore: The Wabash collected one cent more than the shipper thought they were going to collect, that is, did not collect the local rate from Shults on the Iron Mountain to Chicago, but collected a joint rate that applied somewhere back on the line of the Mississippi, Arkansas & Western.

Mr Jeffery: Yes.

Examiner Burchmore: But this man up in Chicago did not know anything about the Mississippi, Arkansas & Western, and he was quite shocked to be charged a rate from some other point of origin, when he had picked out the lumber at Shults. Is Shults a junction point?

Mr. Jones: No, Blissville.

Mr. Jeffery: The point of doubt was as to whether this one cent charge, was a proper charge, and the Commission held it was not.

Examiner Burchmore: And the Commission also discussed the propriety of allowing a two cent charge. They evidently went into it pretty fully with the information they had, and I know they ordered reparation.

Mr. Coles: When he says he bought the lumber and did not know anything about what freight rate was going to be

5959 charged, the records of the Bliss-Cook Oak Company show there is a contract that they had with him, showing conclusively that he signed the contract agreeing to buy f. o. b., whatever it was, an arbitrary of one cent.

Mr. Jones: A contract you had with him?

Mr. Coles: A contract the Bliss-Cook Oak Company had with the Theodore Fathauer Company.

Examiner Burchmore: Counsel states that it is his purpose—or that they have filed a petition for rehearing in the Fathauer case. I will ask you if you care to state what the grounds are upon which you urge a rehearing?

Mr. Jones: I have not determined. I have not gone far enough into it. I think that the two cent rate decision there, in your decision that the two cent rate was cut out, that that went further than what was before the Commission, for one thing. I have not given consideration yet to the question of pleadings.

Examiner Burchmore: The Commission deciding a case uses not only the facts brought in evidence by the parties on the hearing, but avails itself of all the knowledge it has acquired from any sources, through any official sources, but sometimes it avails itself of any fact that is stated in the annual reports of the carriers,
5960 or any fact that it has in its files as having been ascertained by one of its employés. It is not a judicial body.

Mr. Jones: One point I would expect to state, the Commission held there that the fact that the stock of the two corporations was held by identically the same people practically would make it hardly two separate corporations. I do not think that would make any difference; in fact, the evidence was not as full on that as the evidence seems to be now in the report. The facts appearing from the report here now, it may be shown that about that time that the Bliss-Cook Oak Company actually owned 90 per cent of the stock of the railroad. I think still the railway corporation would be a common carrier, just the same.

Examiner Burchmore: Do you still have joint rates with the Iron Mountain on lumber and other foreign products?

Mr. Coles: Yes, I think the last tariff we issued of this suspension——

Mr. Jeffery: It was suspended, though.

Mr. Coles: We issued a supplement.

Mr. Jeffery: The Commission ordered that the supplement—may I make a little statement, your honor?

5961 Examiner Burchmore: Certainly.

Mr. Jeffery: Immediately on receipt of the Commission's decision, which you will notice does not contain an order to the cutting off of the allowance—they say that the allowance is illegal, but they only report here on reparation. Now, immediately on receipt of that I wrote to our traffic department and advised them that in view of the Commission's attitude on this case, that they should immediately cut out the allowance, not waiting for the order of the Commission, which they did, or very shortly afterwards, very shortly after they got my letter they did, and in conjunction with the other suspensions that were made, the Commission suspended the cancellation notice or tariff, but as it now stands, pursuant to the Commission's suggestion in the decision, the company cut off the division, and the Commission, in conjunction with the numerous other suspensions, suspended that tariff.

Mr. Coles: And we have never billed a car of lumber, or anything else from our line since this order was made.

Mr. Jones: That is, you billed no more from——

Mr. Coles: Billed nothing else off our road after we received this order.

5962 Mr. Jeffery: So that in this particular case the cutting out of the tap line division here was practically based on the decision of the Commission in that particular case.

Examiner Burchmore: Do you file annual reports with the Interstate Commerce Commission?

Mr. Coles: Yes, sir.

Examiner Burchmore: How long have you been filing those reports?

Mr. Coles: Annual reports?

Examiner Burchmore: Yes.

Mr. Coles: I could not say.

Examiner Burchmore: Did you file an annual report for the year ending June 30, 1910?

Mr. Coles: Yes, sir.

Examiner Burchmore: Did you ever file an annual report before?

Mr. Coles: Yes, sir.

Examiner Burchmore: For what year?

Mr. Coles: Filed several, but I could not say just how many.

Examiner Burchmore: Any annual reports?

Mr. Coles: Annual reports?

5963 Examiner Burchmore: Yes.

Mr. Coles: That is an annual report.

Examiner Burchmore: Isn't it a fact that the first annual report your company ever made to the Interstate Commerce Commission was one for the fiscal year ending June 30, 1909?

Mr. Coles: This one, you mean (indicating report)?

Examiner Burchmore: No, I say for the year ending June 30, 1909, this is for the year 1910.

Mr. Coles: Yes, sir; I don't remember as to that.

Examiner Burchmore: You don't know that you filed more than two reports?

Mr. Coles: No, sir, I don't know that.

Examiner Burchmore: Do you make monthly reports to the Interstate Commerce Commission?

Mr. Coles: Yes, sir.

Examiner Burchmore: Do you make accident reports to the Interstate Commerce Commission?

Mr. Coles: No, I don't think we do. I don't remember ever having any accidents.

Examiner Burchmore: Do you have safety appliances on your cars and engines?

Mr. Coles: We have air brakes and automatic couplers on
5964 all cars that we ship to interstate points, but local shipments on the road, we just have air brakes on the engines, and regular couplings on the logging cars, but all the box cars we own have automatic couplers.

Examiner Burchmore: But you sometimes run a train that has cars in it that are equipped with air brakes and other cars that are not equipped with air brakes?

Mr. Coles: Yes, sir.

Examiner Burchmore: And in that train you will have some stuff that is going to or coming from interstate points?

Mr. Coles: Going to or coming from?

Examiner Burchmore: Yes.

Mr. Coles: We do not have any shipments that are coming from interstate points.

Examiner Burchmore: But in that train you do have some stuff going out of the state?

Mr. Coles: Sir?

Examiner Burchmore: In such trains composed of air brake and non-air brake cars, you have freight that is going to interstate points?

Mr. Coles: Yes, we may have a few in a train.

Q. Do you ever have a train that has no interstate freight
5965 in it, has no goods in it that are going out of the state.

Mr. Coles: Do we ever have a train?

Examiner Burchmore: Do you ever run a train that has nothing on it that is going outside of the state?

Mr. Coles: That is, on a train that we handle with automatic couplers and air brakes.

Examiner Burchmore: Do you have logging trains and other trains separate?

Mr. Coles: Yes, sir.

Examiner Burchmore: Handle any logs on any other train? Are the logs all handled on log trains?

Mr. Coles: Yes, sir, on logging cars.

Examiner Burchmore: And in logging trains?

Mr. Coles: Yes, sir.

Examiner Burchmore: How long have you been receiving divisions from the Iron Mountain Railroad out of joint rates?

Mr. Coles: Since March 1st, 1905.

Examiner Burchmore: Not previous to that time?

Mr. Coles: Well, we did not have anything to do with it then. The other company had charge of it then.

Examiner Burchmore: What other company?

Mr. Coles: The Chicot Lumber Company.

5966 Examiner Burchmore: Do you wish to examine?

Mr. Jones: I will ask him a question or two.

Cross-examination:

Mr. Jones: What is the length of this road?

Mr. Coles: Sir?

Mr. Jones: What is the length of this road?

Mr. Coles: Eight miles, main line, and a mile and a half yard track.

Mr. Jones: What is the character of the country through which it runs as to being agricultural land, rich land, fit for settlement?

Mr. Coles: Well, it is very good land, it could not be any better.

Mr. Jones: Bottom lands, is it?

Mr. Coles: How is that?

Mr. Jones: Bottom land, is it, not subject to overflow?

Mr. Coles: Choice land.

Mr. Jones: Such as would be settled readily?

Mr. Coles: Yes, sir.

Mr. Jones: Is there any kind of settlement along it now?

Mr. Coles: Yes, sir.

5967 Mr. Jones: You handle some freight then and some passengers.

Mr. Coles: Yes, sir.

Mr. Jones: You can tell just in a general way about that part.

Mr. Coles: We handle some passengers on a caboose, carry them out and in, but we do not make any charge for it.

Mr. Jones: You make no charge for passengers there?

Mr. Coles: No, sir.

Mr. Jones: But haul whoever offers to be hauled?

Mr. Coles: Yes, sir.

Mr. Jones: It is pretty much the same way with the freight, isn't it?

Mr. Coles: Well, local freight; yes, sir, just freight going to the parties living along the line.

Mr. Jones: But general freight is different?

Mr. Coles: Yes, sir.

Mr. Jones: Do you have any general freight out of there aside from logs that go over to the Iron Mountain railroad?

Mr. Coles: Nothing but lumber and some staves.

Mr. Jones: Where do the staves come from?

5968 Mr. Coles: The staves came from along our line.

Mr. Jones: They don't belong to the Bliss-Cook Oak Company?

Mr. Coles: No, sir.

Mr. Jones: To independent people?

Mr. Coles: Yes, sir.

Mr. Jones: You had a joint rate for them with the Iron Mountain Railroad, did you?

Mr. Coles: Yes, sir.

Mr. Jones: You say there is some people settling in along the road now?

Mr. Coles: Yes, sir.

Mr. Jones: Has the Iron Mountain a track into the yards of the Bliss-Cook Oak Company?

Mr. Coles: No, sir.

Mr. Jones: Has it a switch in there on which cars could be loaded?

Mr. Coles: Not without considerable expense to the company—to the lumber company.

Mr. Jones: How do you mean, expense, what would be the distance to haul it over?

Mr. Coles: Have to haul it over here (indicating).

5969 Mr. Jones: Over to a siding there is there?

Mr. Coles: On the Mississippi, Arkansas & Western Railway siding and then to the Iron Mountain siding.

Mr. Jones: You mean over the tracks of the Iron Mountain and over the tracks of the Mississippi, Arkansas & Western?

Mr. Coles: The Iron Mountain has a siding running north of Blissville, about 500 feet, and south about four or five hundred. The Mississippi, Arkansas & Western connects at a point about half

way on the north end of that siding, to a point about half way to the south end of the siding, towards the siding.

Mr. Jones: Now, where is the lumber company's yard situated, on the tracks of the Mississippi, Arkansas & Western?

Mr. Coles: Yes, sir.

Mr. Jones: The Iron Mountain cars run in on those tracks and are loaded in the yards?

Mr. Coles: Yes, sir.

Mr. Jones: Who does that switching, which road switches them in there?

Mr. Coles: Why, our engine and crew switches——

Examiner Burchmore: You say your engine and crew?

Mr. Coles: Yes, sir; our engine and crew.

5970 Examiner Burchmore: Whose engine and crew do you mean by "our"?

Mr. Coles: I mean the Mississippi, Arkansas & Western—engine and crew.

Mr. Jones: Have you stated yet that you are superintendent of that road?

Mr. Coles: No.

Mr. Jones: You had better state that.

Mr. Coles: The engine and crew takes the cars from the siding of the Iron Mountain and places them at the loading point of the lumber company. On an estimate I should say that the Mississippi, Arkansas & Western Railroad Company handles the cars, both empty and loaded, about a mile and a half.

Mr. Jones: You are the superintendent of that railroad, are you?

Mr. Coles: Superintendent and general freight agent, yes, sir.

Mr. Jones: You maintain a regular crew there, railroad crew?

Mr. Coles: Yes, sir.

Mr. Jones: How many engines have you got and how

5971 many cars have you got?

Mr. Coles: We have four engines.

Examiner Burchmore: Those are reported.

Mr. Coles: They are in there, yes. 16 box cars, 4 flat cars, 53 log cars, a total of 73.

Examiner Burchmore: I have a few more questions.

Mr. Jones: All right, go ahead. I have very little more that I care to ask.

Examiner Burchmore: I refer now as a basis for some of these questions to your annual report for the fiscal year ending June 30, 1910. This is the annual report, Form C, for switching terminal companies. Was that form sent you by the Interstate Commerce Commission for filing that?

Mr. Coles: Was that form sent us?

Examiner Burchmore: Yes.

Mr. Coles: That book, you mean (indicating report)?

Examiner Burchmore: Yes, the form itself.

Mr. Coles: Yes, sir.

Examiner Burchmore: This is simply a copy of the report as made to the Commission.

Mr. Coles: Yes, sir.

Examiner Burchmore: Is it a correct copy?

5972 Mr. Coles: Yes, sir, as far as I know it is. I have never checked it over. Signed by the president of the company.

Examiner Burchmore: It is a signed copy, at least?

Mr. Coles: Yes, sir.

Mr. Burchmore: I want to get these into the record, although they are before the Commission. On page 11, you state, in answer to the question: "Did any other corporation or corporations", and so forth, "control the respondent on June 30, 1910? Answer. Yes."

The next question you answered: "Please indicate on form control of respondent?" "Yes, sir."

Sub-question, asking for form of control, whether sole or joint, you state "Sole".

Manner in which control was established. "Acquiring majority of stock."

"Extent of the control." "Own 98 per cent of the above stock."

On page 13 is the question: "Are the tracks of the respondent operated primarily in the interest of any industrial, manufacturing or other corporation, firm or individual?" "If so, give the names," and so forth. "Answer: The Bliss-Cook Oak Company, Blissville, Arkansas."

5973 The mileage is indicated in the report as eight miles of main track, and one and a half miles of siding. I will ask you at this point whether the Bliss-Cook Oak Company has any side track or other lines down there in addition to the lines of this railroad?

Mr. Coles: The Bliss-Cook Oak Company has about twenty miles, I should say, just an estimate, of spurs that lead off from the main line of this railroad, which are operated by the lumber company in delivering logs to the main line.

Examiner Burchmore: I will turn to those in a minute. On pages 20 and 21 you indicate that the total capital stock is $220,000 in the form of 2200 shares of $100 each, and explain that the proceeds of the issue of stock which was made at the beginning was used to construct the road as the present management understands.

Mr. Coles: Yes, sir.

Examiner Burchmore: That is your understanding?

Mr. Coles: Yes, sir.

Examiner Burchmore: So the present management, as a matter of fact, acquired the whole railroad from the former owners?

Mr. Coles: Yes, sir.

5974 Examiner Burchmore: On page 22, under explanatory statements, it is indicated that $220,000 of mortgage bonds, issued in 1902, and maturing in 1922, were made to complete the road, as the present management understands. These bonds, as the report says, are held by the Chicot Lumber Co., predecessor of the Bliss-Cook Oak Company. At the time the Bliss-Cook-Oak Company purchased all the assets of the Chicot Lumber Company about six years ago, the Bliss-Cook Oak Company at the same time acquired all the stocks and bonds in the Mississippi, Arkansas & West-

ern Railway held by the Chicot Lumber Company. I will ask you whether it is your opinion that this railroad eight miles long cost $440,000?

Mr. Coles: No.

Examiner Burchmore: The total capitalization seems to be $220,000 of stock and $220,000 of bonds, and that makes $440,000 of capitalization, does it not?

Mr. Coles: Yes, sir.

Examiner Burchmore: You seem to make it show that that was used to build the railroad?

Mr. Coles: As far as we understood, the other company—have you got the charter there of the road?

5975 Examiner Burchmore: There is some water in that stock, though.

Mr. Coles: Yes, sir.

Mr. Jones: Some water.

Mr. Jeffery: Some stock in the water, I guess.

Examiner Burchmore: In the articles of incorporation of this road, or, rather, the certified copy thereof, it appears that it is a railroad corporation under the laws of the State of Arkansas with a corporate existence of fifty years, and a capitalization authorized of $220,000; that it is to run from a point in Drew County on the bank of Bayou Bartholomew directly west of Blissville, easterly and northeasterly to Gaines Landing on the Mississippi River, entirely in the Counties of Drew and Chicot. I think that is an accurate statement.

Mr. Jones: Yes, sir.

Examiner Burchmore: I think it is unnecessary to put it in evidence, unless you insist.

Mr. Jones: What do you say about it?

Examiner Burchmore: The Commision will not question that you were incorporated under the state law.

Mr. Jones: That is all that we want, to show that we are

5976 incorporated under the state law.

Examiner Burchmore: On page 45 of the report, you indicate that the revenue for the year, the switching revenue, is $2,695.64, the same amount being the total revenue. Have you any explanation to make of that figure, or the items which it covers?

Mr. Coles: I think that is understood to mean under the class of the railroad.

Examiner Burchmore: No further explanation? I presume the report speaks for itself.

Mr. Coles: There is nothing further.

Examiner Burchmore: The Act to Regulate Commerce requires the carrier to report a general balance sheet each year on their annual report, as I recall the language of the act. On page 87 of this report is your general balance sheet. I notice one item—I am not familiar with accounting matters. And I do not quite understand the balance sheet, but it has got $11,000 noted in the column headed June 30, 1909, as interest on the funded debt paid by the Bliss-Cook Oak Company. I simply want to ask whether the Bliss-Cook Oak Com-

pany paid or pays interest on the funded debt of this rail-
5977 road?

Mr. Coles: I am unable to answer that question.

Examiner Burchmore: You don't know whether they do or not?

Mr. Coles: No.

Examiner Burchmore: I thought you were the accounting officer of that railroad?

Mr. Coles: No, sir, I am not the accounting officer; I am the superintendent and general freight agent.

Examiner Burchmore: I thought you were the auditor?

Mr. Coles: No, sir.

Examiner Burchmore: On page 91 you will find one general office clerk, certain train crews, number not given. How many train crews have you?

Mr. Coles: Two.

Examiner Burchmore: How many men?

Mr. Coles: Six.

Examiner Burchmore: Those men also work at times for the Bliss-Cook Oak Company?

Mr. Coles: Yes, sir.

Examiner Burchmore: And you report master mechanic and helpers, and section crews. The column for the number of them is left blank, and the total compensation of all employés is
5978 given as $8,685.97.

Mr. Coles: Yes, sir.

Examiner Burchmore: Distribution is also given, and the explanation is made on page 90: "It is impossible to give the number of days the above employés worked. They are employed to work for the Bliss-Cook Oak Company as well as the respondent, and their time is pro-rated as near as possible." That, in your opinion as an operating official, is correct, the explanation is correct?

Mr. Coles: Yes, sir.

Examiner Burchmore: On page 93, you give traffic car statistics, showing the number of cars handled, revenue, and so forth. I won't read the figures, but on page 92 you say: "The figures on the opposite page are based on the number of cars of logs delivered to the saw mill of the Bliss-Cook Oak Company, and the number of cars of lumber delivered to respondent by the Bliss-Cook Oak Company for shipment out. The cars on which the logs are hauled are small cars, or what are termed dolly cars." I will ask you whether you moved any logs for anyone else other than the Bliss-Cook Oak Company?

Mr. Coles: Yes, sir.

Examiner Burchmore: How extensively, how much?

5979 Mr. Coles: How much you mean a month?

Examiner Burchmore: What is the extent of such movements, yes.

Mr. Coles: About 100 cars, I should say, a year.

Examiner Burchmore: Sir?

Mr. Coles: 100 cars a year, I should say.

Examiner Burchmore: Who furnishes those logs?

Mr. Coles: Who furnishes those logs?
Examiner Burchmore: Yes.
Mr. Coles: The Fee-Crayton Lumber Company.
Examiner Burchmore: All these logs come from points along your road?
Mr. Coles: They came from points south of the switches that I indicated in my answer to Mr. Jones' question.
Examiner Burchmore: Were they teamed over to this railroad?
Mr. Coles: Yes, sir.
Examiner Burchmore: Loaded on cars belonging to your company?
Mr. Coles: Yes, sir.
Examiner Burchmore: They did not move over private logging spurs of the Bliss-Cook Oak Company?
5980 Mr. Coles: No, sir.
Examiner Burchmore: Where do they go to?
Mr. Coles: Went to Deermont, Arkansas, about eight miles north.
Examiner Burchmore: On the Iron Mountain?
Mr. Coles: Yes, sir.
Examiner Burchmore: Did you turn over the cars to the Iron Mountain?
Mr. Coles: Yes, sir.
Examiner Burchmore: The loaded cars?
Mr. Coles: Yes, sir.
Examiner Burchmore: And the Iron Mountain moved them down to that point?
Mr. Coles: Yes, sir.
Examiner Burchmore: Do you know whether milling in transit rates were charged on that stuff?
Mr. Coles: Milling in transit rates?
Examiner Burchmore: Yes.
Mr. Coles: No, sir.
Examiner Burchmore: What did you get for those logs?
Mr. Coles: We got $2.50 a car.
Examiner Burchmore: For the movement?
5981 Mr. Coles: Switching them from our tracks to the Iron Mountain.
Examiner Burchmore: What distance did they move over your line?
Mr. Coles: About 2,000 feet.
Examiner Burchmore: I thought they came from up in here somewhere (indicating on map), those logs.
Mr. Coles: They did come from out here; they were hauled up to one of the switches that was located around the yards of the Bliss-Cook Oak Company that belonged to the Mississippi, Arkansas & Western Railroad.
Examiner Burchmore: Why did they haul them clear over to the Iron Mountain?
Mr. Coles: Because they could deliver them to our tracks for less expense than they could to the Iron Mountain, notwithstanding the $2.50 per car.

Examiner Burchmore: Is there any other——

Mr. Coles: They could not get to the Iron Mountain without going considerably further.

Examiner Burchmore: How much further, a mile?

Mr. Coles: Yes, sir, I should say three quarters of a mile, anyhow.

5982 Examiner Burchmore: Is there any further explanation you can give of that matter?

Mr. Coles: Of what?

Examiner Burchmore: Of the matter you have just stated, the fact that this company teams their logs over to your loading tracks and that you switch them on your own cars and not on Iron Mountain cars?

Mr. Coles: Well, I did not—did I say on our own cars?

Examiner Burchmore: Well, I asked you whether those logs were loaded on Mississippi, Arkansas & Western cars or on Bliss-Cook Oak Company cars, and you said Mississippi, Arkansas & Western.

Mr. Coles: Well, I meant the Iron Mountain.

Mr. Burchmore: Do you know what the Iron Mountain charges those people?

Mr. Coles: No, sir, I do not know.

Mr. Jeffery: These logs that you say you bought from some other shipper than the Bliss-Cook Oak Company, were they sold to the Bliss-Cook Oak Company?

Examiner Burchmore: He did not say he bought them.

Mr. Coles: I said they shipped them for those people.

Mr. Jeffery: That you shipped for the other people, did

5983 you buy them from the other people?

Mr. Jones: The Bliss-Cook Oak Company bought them from those people.

Mr. Coles: No, sir; of course we did not, we would not have been shipping them to them if we had been buying them.

Mr. Jeffery: I did not know whether you did or not. Did they deliver some other logs that way that would be shipped by them to your mill?

Mr. Coles: No, sir.

Mr. Jeffery: Where did they haul to your mill?

Mr. Jones: They were hauled out there up the railroad, up to Deermont.

Mr. Jeffery: Taken up to another mill?

Mr. Coles: Taken up to Deermont.

Examiner Burchmore: Whose mill?

Mr. Coles: The Fee-Crayton Hardwood Lumber Company.

Mr. Jones: They have a mill at Deermont, have they?

Mr. Coles: Yes, sir.

Mr. Jeffery: Their mill?

Mr. Coles: Their mill, yes, sir.

5984 Examiner Burchmore: What relation if any exists between your company and the Bliss-Cook Oak Company?

Mr. Coles: None whatever.

Examiner Burchmore: Do they have any tap line railroad up there to their mill?

Mr. Coles: I could not say whether they have or not.

Examiner Burchmore: Do you know whether they have any rail at all up there?

Mr. Coles: They have got some trackage, I think.

Examiner Burchmore: Do you know whether it is incorporated?

Mr. Coles: Whether the railroad is?

Examiner Burchmore: Yes.

Mr. Coles: No, I don't know that.

Examiner Burchmore: You have handled these logs, this 100 carloads of logs for the Fee-Crayton Company. Have you handled anything else for anybody else besides this Bliss-Cook Oak Company? If so, what and for whom?

Mr. Coles: We handled some bolts.

Examiner Burchmore: How much?

Mr. Jones: Stave bolts?

Mr. Coles: Stave bolts, yes, sir.

5985 Examiner Burchmore: How many carloads?

Mr. Coles: About twenty, I should say.

Examiner Burchmore: For whom?

Mr. Coles: Handled them for Mr. Rush Alexander.

Examiner Burchmore: Who is Mr. Alexander?

Mr. Coles: He is just an ordinary working man, timber man, you might say.

Examiner Burchmore: In business for himself?

Mr. Coles: No, not as far as I know.

Examiner Burchmore: Who were those bolts sold to, or where did they move to?

Mr. Coles: They were moved to Deermont.

Examiner Burchmore: Did he have any connection with this company, the Fee-Crayton Lumber Company?

Mr. Coles: No.

Examiner Burchmore: How did it happen that this stuff went to Deermont?

Mr. Coles: There is a stave mill there besides the other.

Examiner Burchmore: Who owns that stave mill?

Mr. Coles: Mr. Katz.

Examiner Burchmore: What rate did they pay your company on those stave bolts?

5986 Mr. Coles: There might have been staves going to other people, but when they were billed out, their agent was down there and billed them out on an Iron Mountain bill of lading. All these were moved via Iron Mountain bill of ladings, for that matter. As to whom they went to I could not say positively.

Examiner Burchmore: Where was that Iron Mountain bill of lading issued?

Mr. Coles: At Blissville.

Examiner Burchmore: What was the point of origin on that bill of lading?

Mr. Coles: We charged simply for performing the switching.

Examiner Burchmore: Which the Iron Mountain absorbed?

Mr. Coles: No, sir, which the other railroads—they took the matter up with me, asked me what we would charge them, and I told them that we would do switching, for them on that class of stuff down there, for either two or two and a half a car, I would not be certain now, and they said that was perfectly satisfactory. I filed the tariff with the Arkansas Commission asking for that, and they waited I guess for a couple of weeks, and I wrote them,—at least I was up in Little Rock and I went up in the office. In the
5987 meantime these shipments—In the meantime, these parties to whom these shipments were going, kept after us to ship the stuff. We were not going to ship it until we got the tariff. When we got the notice that the tariff was approved by the Arkansas State Commission, we shipped the stuff out.

Examiner Burchmore: What distance did you move that stuff?

Mr. Coles: About two thousand feet.

Examiner Burchmore: They also took their staves down there?

Mr. Coles: On that road at the same place.

Examiner Burchmore: Have you moved anything else for the public in the last year or so that you can recall?

Mr. Coles: I may be a little too high, understand, on the amount of bolts and the amount of logs, and I may be a little low.

Mr. Jones: Let me ask you there if you don't move some stuff for people moving along the line all the time?

Mr. Coles: Yes, sir.

Examiner Burchmore: How much?

Mr. Coles: Well, just local shipments of stuff.

5988 Examiner Burchmore: What does that amount to, I mean?

Mr. Coles: I should say a car a week.

Examiner Burchmore: A carload a week?

Mr. Coles: Just in local shipments.

Examiner Burchmore: What do you get on that?

Mr. Coles: Nothing.

Examiner Burchmore: Haul it free?

Mr. Coles: Yes, sir.

Examiner Burchmore: You don't report that stuff to the Interstate Commerce Commission?

Mr. Coles: Sir?

Examiner Burchmore: You don't report that tonnage to the Interstate Commerce Commission?

Mr. Coles: No, sir, that we haul free.

Examiner Burchmore: Do you haul any logs or staves or anything else over that portion of your line that is west of this 2,000 feet or not, west of the loading track, I should say, back of this loading point?

Mr. Jones: That is east.

Examiner Burchmore: East of this loading point, do you move anything for anybody except the Bliss-Cook Oak Company, forgetting for a moment this local stuff that you say——

5989 Mr. Coles: You mean local shipments of stuff that we shipped from Blissville on our line?

Examiner Burchmore: Yes, either way, moved in either direction.

Mr. Coles: Yes, we move it for anybody.

Examiner Burchmore: Do you actually move anything?

Mr. Coles: Well, I stated about a car a week, I believe.

Examiner Burchmore: Anything else besides that stuff that you do not charge for?

Mr. Coles: In the way of what?

Examiner Burchmore: In the way of anything, grain, live-stock——

Mr. Coles: No, sir, we don't move anything else.

Examiner Burchmore: Staves?

Mr. Coles: The only staves that I said were moved from out on the line, going to interstate points—going to an interstate point.

Examiner Burchmore: What point out on the line, how far out on the line?

Mr. Coles: Just beyond Shults.

Examiner Burchmore: Those staves are handled by the
5990 Bliss-Cook Oak Company, aren't they?

Mr. Coles: No, sir.

Examiner Burchmore: How far do you move those staves?

Mr. Coles: Move them about two and a half to three miles.

Examiner Burchmore: How much do you get for them?

Mr. Coles: We get an arbitrary of one cent and our division from New Orleans, practically 2 cents.

Examiner Burchmore: I thought you said all those staves were loaded on the same track where the other stuff is loaded, 2500 feet from the Iron Mountain?

Mr. Coles: No, sir, I said stave bolts.

Examiner Burchmore: How many carloads of staves have you moved from out there on your line some distance from Blissville?

Mr. Coles: Five or six carloads since we have had control of the road.

Examiner Burchmore: You have received two or three cents a hundred pounds on that stuff?

Mr. Coles: Two or three?

Examiner Burchmore: Yes.

Mr. Coles: Yes.

Examiner Burchmore: What division do you receive on
5991 lumber that you receive for the Bliss-Cook Oak Company, two or three cents?

Mr. Coles: We have not done anything since this opinion was handed down.

Examiner Burchmore: Previous to that time you received two or three cents?

Mr. Coles: Yes, sir.

Examiner Burchmore: The rate, however, was one cent higher than the Iron Mountain rate?

Mr. Coles: Yes, sir.

Mr. Jeffery: You say you have not received anything since this opinion was rendered?

Mr. Coles: No, sir.

Mr. Jeffery: Isn't that on account of the fact that the Iron Mountain and the Mississippi, Arkansas & Western has a little difficulty about some freight claims?

Mr. Coles: No, not a bit.

Mr. Jeffery: But the tariff has been re-established, has it not, the division sheet?

Mr. Coles: No, sir, it was not on account of anything only the ruling of the Commission.

5992 Mr. Jeffery: But the tariff has been re-established, hasn't it?

Mr. Coles: No, sir.

Mr. Jeffery: The division sheet has been re-established?

Mr. Coles: No, sir.

Mr. Jeffery: Even under that division sheet you have not gotten anything?

Mr. Coles: We have not gotten anything, no, because we don't know—No, our division sheet is not—we have been waiting to reinstate the tariff.

Mr. Jeffery: So at the present time you are not getting divisions?

Mr. Coles: No, we are not getting anything.

Mr. Jeffery: You are not getting divisions of this kind?

Mr. Coles: No, sir, we are not billing them off of our road. We are performing the service for nothing under this opinion.

Mr. Jeffery: You are hauling those cars from Blissville to the junction point and not claiming any division, and not asking for anything?

Mr. Coles: We are not charging any arbitrary since this Fathauer against the Iron Mountain & Southern Railroad.

5993 There is a case which was decided June 2, 1910, which caused us to stop or to cease billing any shipments on our line. We have never known yet whether we are entitled to anything or not for performing the service. We have performed it for the Bliss-Cook Oak Company as well as anyone else, free of charge.

Examiner Burchmore: You have never charged the farmers out there anything for hauling their staves?

Mr. Coles: No, sir.

Examiner Burchmore: You are superintendent of the Bliss-Cook Oak Company?

Mr. Coles: Yes, sir.

Examiner Burchmore: Their letterhead—I show you their letterhead. (Showing witness letterhead.) Is that the letterhead you use now?

Mr. Coles: Yes, sir.

Examiner Burchmore: It says, "Saw mills, and flouring plants, Blissville, Arkansas, and Shults, Arkansas." Have you any plant at Shults?

Mr. Coles: No, sir.

Examiner Burchmore: Why do you put that on your letterhead if you have no plant there?

5994 Mr. Coles: I don't know why they put it on. I did not have charge of that.

Examiner Burchmore: Is it so that your customers of the Bliss-Cook Oak Company will understand why their charges are assessed from Shults?

Mr. Coles: Is it so that the Bliss-Cook Oak Company understands——

Examiner Burchmore: So that their customers will understand why their charges are assessed upon Shults basis instead of upon a Blissville basis?

Mr. Coles: Yes, they are all assessed.

Examiner Burchmore: Are the rates which are applied upon the Bliss-Cook Oak Company's traffic on a transit basis for hauling logs in, do they cover the logs in as well as the lumber out?

Mr. Coles: The logs are hauled to the mill. The Bliss-Cook Oak Company pays the railroad company for hauling in the logs.

Examiner Burchmore: Now, what service, when you were receiving a division of the freight—what service were you rendering for which you should receive that division?

Mr. Coles: We were hauling the logs, that is the service.

5995 Examiner Burchmore: You don't claim that the division the Iron Mountain gave you was supposed to recompense you for hauling the logs?

Mr. Coles: It was to recompense for hauling the logs.

Examiner Burchmore: They paid you for hauling the lumber, didn't they?

Mr. Coles: Yes, sir, that is what we got the division for.

Examiner Burchmore: For what distance?

Mr. Coles: I stated a while ago, about one mile and a half, moving in the empties and taking the loads out.

Examiner Burchmore: Did you say a quarter of a mile in each direction?

Mr. Coles: Yes, sir.

Examiner Burchmore: How much did that amount to a car, your division?

Mr. Coles: That we received from the Iron Mountain?

Examiner Burchmore: Yes, sir, when you received one.

Mr. Coles: You mean in shipping lumber out from points on the M. A. & W.?

Examiner Burchmore: Yes, to an interstate destination.

5996 Mr. Coles: How much did it amount to?

Examiner Burchmore: Yes.

Mr. Coles: Well, suppose a car weighed 50,000 pounds, it amounted to——

Examiner Burchmore: That was the usual ordinary weight?

Mr. Coles: Usual ordinary weight; $15.00.

Examiner Burchmore: You have carefully read the opinion which was rendered in the Faithauer case?

Mr. Coles: Yes, sir.

Examiner Burchmore: Is there any fact in that case stated as a fact, which is not a fact.

Mr. Coles: Yes, sir.

Examiner Burchmore: I ask you that question without reference to any conclusion, or any theory of law that case may contain—and I ask you what fact is incorrectly set forth in that opinion.

Mr. Coles: Mr. Lazinsky, I think, testified there—Mr. Lazinsky of the Chico Lumber Company testified that the Iron Mountain siding was used entirely for the purpose of loading lumber from those lumber piles of the Chico Lumber Company.

Examiner Burchmore: That is not a fact?

5997 Mr. Coles: No, sir.

Examiner Burchmore: He testified to it but it is not a fact?

Mr. Coles: No, sir, it is not a fact.

Examiner Burchmore: What further use is made of that siding?

Mr. Coles: Up to the end of 1905, he just says up to 1905.

Examiner Burchmore: Yes. Well, that was true up to 1905, wasn't it?

Mr. Coles: He says up to the first of 1905.

Examiner Burchmore: Yes.

Mr. Coles: No, sir.

Examiner Burchmore: What is true, what is the fact?

Mr. Coles: I went to take charge of that business on the first of October, 1904, and there wasn't any cars on the Iron Mountain Siding at the time I went to Blissville.

Examiner Burchmore: That fact then is incorrect?

Mr. Coles: Yes, sir. The secretary, I think, of the Theodore Faithauer Company testified to the same thing that Mr. Lazinsky did.

5998 Mr. Jones: Who testified?

Mr. Coles: That he was down there and saw some of the lumber being loaded, and that it was loaded on Iron Mountain tracks, and we billed it out, as originating on our line.

Examiner Burchmore: That is not a fact?

Mr. Coles: No, sir, that is not, from the Mississippi, Arkansas & Western.

Examiner Burchmore: Didn't the complainant testify that one of the cars which was the subject of this complaint was loaded under his direction or supervision and in his presence onto a car that was standing on rails belonging to the Iron Mountain?

Mr. Coles: The complainant? Faithauer was the complainant.

Examiner Burchmore: Didn't he so testify?

Mr. Coles: That is what I was talking about just now.

Examiner Burchmore: You think that that from your own knowledge, you know that that was incorrect?

Mr. Coles: Yes, I know that it was incorrect since I have been there.

Examiner Burchmore: You don't know whether it was correct or incorrect with respect to that particular car?

5999 Mr. Coles: There was never any car loaded on the Iron Mountain siding since the time I have been there.

Mr. Jones: You may state whether it would have to be hauled there with wagons, to be loaded there on that siding?

Mr. Coles: Yes, then we would have to make a trestle over the top of our siding, to get over to the Iron Mountain, to build up some way or other.

Mr. Jeffery: I will call your Honor's attention to the fact that on behalf of the Iron Mountain and on behalf of the Mississippi, Arkansas & Western there was a plat filed of the switch connections there. I think you will find a record of that in the other case.

Examiner Burchmore: I will ask you to run over this here during the noon hour and at 2 o'clock I will give you an opportunity to point out any other fact stated in the opinion as a fact, which to your knowledge is not correct. You may have that, but at 2 o'clock I should like to know what is incorrect in your opinion.

Mr. Coles: Yes, sir. Now, the reason that I say these were not correct, and which could have been proven to be incorrect, had we received notices that they were going to take depositions in
6000 Chicago for this hearing, for this case.

Mr. Jones: Explain that. You say you had no notice of them?

Mr. Coles: No, sir.

Mr. Jones: Did not know of those depositions?

Mr. Coles: No, sir, did not know they were going to be taken.

Examiner Burchmore: Are you sure there were any depositions taken in Chicago?

Mr. Coles: That is my understanding.

Mr. Jeffery: I think the depositions were taken at Little Rock and the hearing was in Chicago.

Mr. Jones: The deposition was taken down there, wasn't it?

Mr. Coles: No, it was not. That was taken in Chicago.

Examiner Burchmore: You received notice of the hearing in Chicago, the Mississippi, Arkansas & Western?

Mr. Coles: We did not receive any notice of the taking of depositions in Chicago.

Examiner Burchmore: The record will show what the fact is in that connection, with reference to it. We have the record.
6001 Of course, if no fact was brought out in those depositions which the Commission used, or if any fact was brought out that was admitted by you now to be correct, you could hardly complain.

Mr. Jones: No.

Examiner Burchmore: I said that I would be glad to permit you at 2 o'clock to give further testimony.

Mr. Jones: We have no further witness.

Examiner Burchmore: Do you desire to ask any additional questions?

Mr. Jones: Let me see, there was a question or two. I think the chairman of the taxing commission of Arkansas in his deposition stated that your company had paid no taxes as a railroad.

Examiner Burchmore: Until the year 1909.

Mr. Jones: Yes, until the year 1909. You may state now whether

you did pay for that year and previous years, whether they assessed you back, tell us how that was, whether you paid taxes?

Mr. Coles: We never paid any taxes to the Tax Commission or by their order, but the County of Chico and the counties that the Mississippi, Arkansas & Western goes through, assessed us at a
6002 higher rate on the sections that it went through. When the Arkansas Tax Commission went into—came into existence, which was last year, wasn't it?

Mr. Jones: Yes, it was the last session of the legislature two years ago.

Mr. Coles: They came in and assessed us back to 1903, including 1903.

Mr. Jones: You paid the taxes, did you?

Mr. Coles: How is that?

Mr. Jones: You paid the taxes, did you?

Mr. Coles: Yes, sir, we had to pay them.

Examiner Burchmore: The secretary of the Commission, the Arkansas Commission made the same statement, that you had filed no report, in his deposition he stated that you had never filed any report as a railroad before that commission. You may tell how that was, what talk you had with him afterwards?

Mr. Coles: G. W. Swain, the rate clerk, testified that the Mississippi, Arkansas & Western Railway Company never filed as an operating railroad any report with that commission as required by the laws of Arkansas. After the testimony was taken and everything was finished and through I was up at Little Rock, and I remem-
6003 ber after that I went around to see Mr. Swain on some other matters and I spoke to him about it, and I said—I asked him if we did not have a tariff on file in his office and he said we did, and I said: "Why did you testify like you did over there?" He said, "I didn't know what it was about. They asked me about the question and I answered them." I said, "Well, you never sent us any blanks to fill out, which is customary, which you sent out to other roads, and if we had filed our tariff in your office would it not make us an operating carrier whether these reports had been filed or not?" He said he was ready to change his testimony at any time.

Examiner Burchmore: Is that all?

Mr Coles: Yes.

Examiner Burchmore: I will offer in the record—or rather I will make reference at this point to the fact that on May 6, 1903, the secretary of the Commission wrote to the general manager, Mr. Lazinsky of this railroad, asking him to file accident reports. Mr. Lazinsky,—I guess that is his signature——

Mr. Jones: Yes, that is his signature.

Examiner Burchmore: And he replied: "I don't think that we come under the head of interstate commerce, as the lines
6004 of our road are operated only in the state of Arkansas." To which the secretary replied saying that the mere fact that a road lies in a single state won't finally determine such questions. The files of the Commission contain no later correspondence with

this company so far as I am advised on this subject and the company has never made any accident reports that I find.

Mr. Jones: Did it ever have any accidents?

Mr. Coles: How?

Mr. Jones: It never had anything to report did it?

Mr. Coles: Not since I have been with them.

Examiner Burchmore: Any employé of the railroad ever been injured?

Mr. Coles: Might have been some minor injuries.

Examiner Burchmore: Broken arms?

Mr. Coles: I don't remember of a man ever having a broken arm.

Examiner Burchmore: Ever have any derailments, where an engine ran off the track?

Mr. Coles: Oh, yes, I am only speaking for the time I was in the employ of the company.

Examiner Burchmore: I understand you are speaking from
6005 your information?

Mr. Coles: Yes, sir.

Examiner Burchmore: Is there anything further?

Mr. Coles: I think that is all.

Examiner Burchmore: You are at liberty to brief this case if you desire. Mr. Jeffery, have you any questions you wish to ask?

Mr. Jeffery: No, not any. I was just wondering if there was anything further in this case at all; I have two other cases.

Mr. Coles: I think not, except that I might ask that the parties advise the Commission with respect to this dispute about some freight claims.

Mr. Jeffery: I think that is up with the Commission now. If it is not, I will see that it is.

Examiner Burchmore: We will take a recess at this point until 2 o'clock.

Whereupon, at 12:30 o'clock P. M. a recess was taken until 2 o'clock P. M.

6006 ST. LOUIS, MISSOURI, *January* 27, 1911—2:00 p. m.

After Recess.

Examiner Burchmore: We will resume this hearing.

Mr. Jones: Instead of filing a motion for a rehearing in the Theodore Fathauer case, I have concluded that it would be better simply to refer to it, as I do not care to trouble the Commission with a motion to rehear. I understand the whole subject of rates with tap lines, this one along with the other, is continued to this hearing, and the whole matter can be presented, as I believe, in the brief in this case.

Examiner Burchmore: Your impression is as counsel that the larger question in which you are interested can be adequately disposed of in the present proceeding, and that it would be unnecessary to reopen the previous case?

Mr. Jones: That is my judgment, yes, sir.

Examiner Burchmore: The record will so indicate. Of course you may brief this case.

Mr. Jones: Yes, I will brief this case. Now, I want to refer a minute to the correspondence of Mr. Lazinsky. What is the date of that?

Examiner Burchmore: 1903.

6007 Mr. Jones: I want to ask Mr. Coles about Mr. Lazinsky, what connection he has with the railroad now, and when his connection ceased.

Mr. Coles: He has no connection whatever now.

Mr. Jones: When did his connection with the railway cease—with the railway company?

Mr. Coles: In October or November, 1904.

Mr. Jones: What date was it that Mr. A. P. Bliss took over the property and assets of the Chico Lumber Company, and the stock and bonds of this railway company?

Mr. Coles: March 1st, 1904.

Mr. Jones: 1905?

Mr. Coles: Yes, 1905.

Mr. Jones: The railway company was then—the stock in the railway company was then completely changed, was it not?

Mr. Coles: Was what?

Mr. Jones: Was changed entirely, put in other names; there was no person that had been connected with the railroad company prior to that connected with it after that?

Mr. Coles: Except——

Mr. Jones: Except probably Cook for a little while.

Mr. Coles: One.

6008 Mr. Jones: Except one, and he did not last long until he went out, did he?

Mr. Coles: No, sir.

Mr. Jones: Went out within a year, I believe?

Mr. Coles: December, 1904.

Mr. Jones: In 1905?

Mr. Coles: 1905.

Mr. Jones: I believe that is all. I just wanted to show this correspondence had nothing to do with the railway company.

Mr. Burchmore: That is all, Mr. Coles.

Mr. Coles: Your Honor, I want to correct one matter, I don't know whether you understood or not, and say that I did not receive notice of taking depositions in Chicago, understand, but I did receive a notice from the Commission of the hearing. The depositions had gone in and briefs been filed.

Examiner Burchmore: I so understood.

Mr. Coles: I did not know whether you understood that or not.

Mr. Jones: I guess that is all we can do now.

6009 *Mangham & North Eastern Railway Company.*

S. R. GREER was called as a witness, and having been duly sworn, testified as follows:

Direct examination:

Mr. Brown: Mr. Greer has a very concise statement of the affairs of this company. I think it might shorten this if he would just read that into the record.

Examiner Burchmore: What is your business?

Mr. Greer: I am general manager and treasurer.

Examiner Burchmore: Mr. Greer, have you prepared a statement showing the date of incorporation, capitalization, number of shares issued, and the amount of cash paid in on the shares of stock issued, and the general business of this railway company?

Mr. Greer: I have.

Mr. Brown: Will you just read that statement into the record?

Mr. Greer: (Reading.)

Date of incorporation November 13th, 1905.

Total amount of stock authorized, 500 shares, $100.00 par. Outstanding.—300 shares, $30,000.00.

Realized from 300 shares $30,000.00.

6010 Expended for additions and betterments during year: June 30th, 1909 to June 30th, 1910, $13,603.75.

Investment Since June 30th, 1907.

Road		$26,212.05
Equipment		9,312.36
Total		$35,524.31
Charged off as depreciation		7,104.86
Net total		$28,419.45
Operating revenue		$13,403.09

Operating Expense.

Main. of ways and structures	$4222.33	
Main. of Equipment	2410.12	
Transportation Expense	1597.00	
General Expense	300.00	
Traffic	600.00	
		9,129.33
Net operating revenue		4,273.64
Less taxes		235.22
		4,038.42
Less Depreciation		7,104.86
Deficit		3,066.44

President, Walter Alexander, Wausau, Wisconsin.
Vice President, Alexander Stewart, Wausau, Wisconsin.
Tres. & Gen. Mgr., S. R. Greer, St. Louis, Missouri.
Sec'y & Supt. & Gen. Agt., J. W. Wilson, Mangham, La.

Tonnage.

Grain	141 tons.
Hay and other farm products	165 tons.
Lumber	8130 tons.
Other forest products	32816 tons.
Total	41252 tons.

Mr. Brown: What is your junction point?
Mr. Greer: Mangham.
Mr. Brown: That is on what main line road?
6011 Mr. Greer: That is on a branch of the Iron Mountain, originally the New Orleans and Northwestern.
Mr. Brown: You are incorporated under the laws of Louisiana?
Mr. Greer: We are.
Mr. Brown: And Mangham is Mangham, Louisiana?
Mr. Greer: Yes, sir.
Mr. Brown: What general direction does this road extend from Mangham?
Mr. Greer: East and northeast.
Mr. Brown: What is the length of the line?
Mr. Greer: About six miles of main line and two miles of spurs and siding.
Mr. Brown: Is that the length of the present mileage?
Mr. Greer: Yes, sir.
Mr. Brown: Six miles?
Mr. Greer: Yes, sir.
Mr. Brown: Is it standard gauge?
Mr. Greer: Yes, sir.
Mr. Brown: Of what weight rails is this main line made?
Mr. Greer: Mostly 40 pounds. We have a little 35 pounds and also a little 45 pounds, but there is probably 80 per cent of it 40 pound rails.
6012 Mr. Brown: You are also interested in the Stewart-Greer Lumber Company?
Mr. Greer: I am.
Mr. Brown: That company has a mill upon its line of railroad, has it?
Mr. Greer: It has.
Examiner Burchmore: May I interrupt just to see the location of this mill and the other tracks in and around Mangham, are they shown by this sketch that you lay before me?
Mr. Greer: Yes.
Examiner Buurchmore: May that be received in evidence?
Mr. Brown: Yes, it was prepared for that purpose.

(The sketch so offered and identified was received in evidence and thereupon marked "Greer Exhibit No. 1, received in evidence January 27, 1911," and is attached hereto and made a part hereof.)

Mr. Brown: The statement that you read into the record contained a list of the stockholders of the Stewart-Greer Lumber Company?

Mr. Greer: No, it did not. I have that here, however.

Mr. Brown: Just read it into the record.

Mr. Greer (reading): S. R. Greer, 1250 shares; Alexander
6013 Stewart, 625 shares; John Stewart, 312½ shares; Walter Alexander, 312½ shares.

Mr. Brown: Also a statement of the stockholders of the Mangham & North Eastern Railway Company?

Mr. Greer: Yes, sir.

Mr. Brown: Just read that into the record.

Mr. Greer (reading): Alexander Stewart, 100 shares; Walter Alexander, 100 shares; S. R. Greer, 99 shares; J. W. Wilson, 1 share.

Mr. Brown: Now, will you please state whether or not the present owners—the present stockholders of this railway company constructed the line?

Mr. Greer: Not all of it; all but about a mile and a half to two miles.

Mr. Brown: Will you please give the Examiner a brief history of the construction?

Mr. Greer: The road was incorporated in November, 1905 by some parties who organized the Richland Lumber Company, and the following year, May, 1906, the entire property, including the railroad, was bought by the Greer-Wilkinson Lumber Company.

Now, I do not recall just who the stockholders were in the
6014 railroad company, all of them, but in February, 1909, the present company, the Stewart-Greer Lumber Company, bought, or rather the parties to that deed bought both the railroad, mill and timber properties.

Mr. Brown: When this purchase was made in 1909, was there an appraisement made of this railroad property, and a separate appraisement made of the timber and mill property?

Mr. Greer: There was, yes, an itemized appraisement.

Mr. Brown: Did the present stockholders of the railroad company pay that appraised value in actual cash for the capital stock and property of the railroad company?

Mr. Greer: They did.

Mr. Brown: So that this railroad property represents an actual cash investment by the present stockholders?

Mr. Greer: It does.

Mr. Brown: Now, since the present stockholders acquired the property, have they expended in extensions and maintenance of way and betterments any additional money?

Mr. Greer: Yes, a considerable sum. It is shown on that statement.

Mr. Brown: The book value of your road is now something like $46,000?

Mr. Greer: No, about $42,000 assets.

6015 Mr. Brown: Yes, about $42,000. Now, does your road have any indebtedness?

Mr. Greer: It has an indebtedness of a little over $12,000.

Mr. Brown: To whom is that due?

Mr. Greer: That is owing to the Stewart-Greer Lumber Company.

Mr. Brown: Is that shown in the report which you make to the Interstate Commerce Commission?

Mr. Greer: It is.

Mr. Brown: The annual report?

Mr. Greer: Well, I believe it is not shown to whom it is owing, but that it is owing, yes.

Mr. Brown: Tell the Examiner what you have there in the way of equipment for handling business?

Mr. Greer: We have two locomotives and 24 cars.

Mr. Brown: These cars are flat cars or logging cars?

Mr. Greer: They were originally all logging cars. We have constructed one of them into a box car.

Mr. Brown: Now the locomotives, what character are they?

Mr. Greer: They are Shays.

Mr. Brown: How many train crews do you employ?

6016 Mr. Greer: Two.

Mr. Brown: Regularly employed?

Mr. Greer: Yes, sir.

Mr. Brown: Do you employ section men?

Mr. Greer: We do.

Mr. Brown: And keep up a corps of employees of that character?

Mr. Greer: Yes, we have two, sometimes three, section Crews—well, one of them is a construction crew.

Mr. Brown: This statement that you have read into the record shows the amount that you expended in the last year in that class of labor?

Mr. Greer: It does, extensions and betterments.

Mr. Brown: Do you pay any salary to any of the officers of the railroad company?

Mr. Greer: Only to the superintendent, who is also the secretary.

Mr. Brown: What salary does he get?

Mr. Greer: He draws $50 a month.

Mr. Brown: Do you have any agents?

Mr. Greer: We have an agent who is also the bookkeeper for the Stewart Greer Lumber Company and the railroad pays

6017 him $25 a month.

Mr. Brown: That is to compensate him for the work which he does for the railroad company?

Mr. Greer: For the railroad company, yes.

Mr. Brown: As distinguished from his labor for the lumber company?

Mr. Greer: That is right.

Mr. Brown: And that is separately accounted for in the account of the railroad company?

Mr. Greer: Yes.

Mr. Brown: What stations have you on the line?

Mr. Greer: We have the junction stations—of course you mean outside of Mangham.

Mr. Brown: Beyond Mangham.

Mr. Greer: We have Greer and Big Creek Camp.

Mr. Brown: Big Creek Camp, does that represent the end of the main line?

Mr. Greer: That was, yes, the end of the main line. We have extended the line somewhat beyond that point now.

Mr. Brown: At the end of the main line extending from the main line do you have what is called here lumber spurs?

Mr. Greer: Yes.

6018 Mr. Brown: Timber spurs, whatever they call them?

Mr. Greer: Yes.

Mr. Brown: How is that handled?

Mr. Greer: That is handled by the railroad company.

Mr. Brown: Does the railroad company at its own expense lay all these timber spurs?

Mr. Greer: It does.

Mr. Brown: And moves them from time to time?

Mr. Greer: It does. The cost of them is included in our maintenance of way.

Mr. Brown: Do you make a separate charge to the lumber company for that purpose?

Mr. Greer: Yes.

Mr. Brown: What is that charge?

Mr. Greer: That is based on a cent and a half a hundred.

Mr. Brown: Being $1.50 a thousand?

Mr. Greer: About $1.50 a thousand.

Mr. Brown: And that is to compensate you for the spur service?

Mr. Greer: Yes, that compensates the railroad company for taking up and moving, taking up and putting down the spurs.

Mr. Brown: What divisions do you get from main line

6019 railroads on the traffic which is handled by your railroad company?

Mr Greer: To tonnage coming to St. Louis or Mississippi River gateways, Cairo, Thebes, and so forth, we get two cents. We also get two cents to Pacific Coast points.

Mr. Brown: What is your highest division?

Mr Greer: Our highest division is to New Orleans, 3½ cents, but I want to explain in regard to that, Mr. Examiner, that while that may seem to be a large division out of a 14 cent rate, it was given us in order to put us on what the Iron Mountain claimed was an equality or nearly so, with points above us, west of us, further away.

Mr. Brown: What points do you have reference to?

Mr. Greer: I have reference particularly to Rayville and Monroe.

Mr. Brown: What was the rate from Rayville to New Orleans?

Mr. Greer: The Rayville rate is 10 cents, the export rate.

Mr. Brown: How far north is that from Mangham?

Mr. Greer: That is 12 miles north. Monroe is about 25 miles northwest. Both of those points have a 10 cent rate.

Examiner Burchmore: What is your rate?

Mr. Greer: Our rate is 14 cents.

6020 Examiner Burchmore: That is, your joint rate?

Mr. Greer: Yes, our joint rate, however, is the same as the rate from the junction.

Examiner Burchmore: What is your division?

Mr. Greer: It is 3½ cents.

Mr. Brown: On New Orleans business?

Mr. Greer: Even considering our joint ownership of the lumber company and the railroad, we are still to the bad a half a cent.

Examiner Burchmore: Then you are not on an equality by half a cent?

Mr. Greer: We lack one half cent of being on an equality with Rayville and Monroe. We also are one half cent higher in that respect than Memphis, which is 200 miles further away.

Mr. Brown: Aside from this New Orleans division, is your division uniformly two cents?

Mr Greer: No, we have a division of 3 cents to Kansas City.

Mr. Brown: On what shipments is that, to Colorado common points?

Mr. Greer: Well, Colorado we have two cents.

Examiner Burchmore: Omaha?

6021 Mr. Greer: Omaha, I think that is 3 cents. I would not be positive. We have never made any shipments to Omaha, but I think our division would be 3 cents to Omaha. Now that is given us, that additional cent is also given us there on some points west and northwest.

Examiner Burchmore: Do you operate in there on a milling and transit basis?

Mr. Greer: That is my understanding of it.

Mr. Burchmore: What transportation service does your railroad company perform for this division of the through rates?

Mr. Greer: We perform all the service from the woods to delivering the loaded cars on the Iron Mountain tracks. We also do all our own switching in and out and around our plant.

Examiner Burchmore: Do you understand that this division covers your compensation for this sort of service out in the timber, or does it cover from the junction——

Mr. Greer: No, I do not. I understand that covers the service that we render from Greer which is in the timber about three and a half miles. My understanding is that it compensates us for handling timber into the mill and the lumber out.

Examiner Burchmore: This plat that you have filed here, Greer Exhibit 1, indicates that all of the milling plant is upon the

6022 line of your railroad company, is that correct?

Mr. Greer: It is.

Examiner Burchmore: And do you perform all of the service in and out of the mill on the manufactured products?

Mr. Greer: We do.

Examiner Burchmore: Where does the Iron Mountain furnish the cars for the outbound——

Mr. Greer: They do not furnish them at all. They leave the cars on their own track.

Examiner Burchmore: Whereabouts?

Mr. Greer: Well, sometimes they are down below the town of Mangham, sometimes in the——

Examiner Burchmore: On their regular side tracks at Mangham?

Mr. Greer: On their regular side tracks at Mangham.

Examiner Burchmore: When the lumber company ships out a car, what service does your railroad company perform on that carload of manufactured lumber?

Mr. Greer: Well, we have to go out and get our cars on the Iron Mountain track, get the cars, load them and set them back again on the Iron Mountain track.

Mr. Brown: What distance is that each way?

6023 Mr. Greer: I beg your pardon?

Mr. Brown: What distance is that each way?

Mr. Greer: That varies, sometimes as much as a mile, other times less than a mile.

Examiner Burchmore: That exhibit shows the distance from the junction, does it, to the mill, 1825 feet?

Mr. Greer: Yes. That is from the junction. We get a large part of our lumber out in here. (Indicating.) This would extend further in proportion in this mill here.

Examiner Burchmore: How far below the junction of your road with the Iron Mountain are these cars placed by the Iron Mountain road?

Mr. Greer: Well, they are left wherever it is most convenient to them. Then frequently as the trains bring them in, should they go north, they are apt to set them at the lower end of the town and go out. Sometimes we get cars that have been brought in with merchandise and unloaded.

Examiner Burchmore: Does the Iron Mountain company perform any service whatever on your rails?

Mr. Greer: No, sir.

Examiner Burchmore: Do the locomotives ever come upon your rails?

6024 Mr. Greer: They never—occasionally one has come in to get water from our tank. They have never come in to perform any service.

Examiner Burchmore: They operate all those private spur tracks?

Mr. Greer: How?

Examiner Burchmore: The lumber company operates all those private spur tracks?

Mr. Greer: No, the railroad operates them.

Mr. Brown: That is the timber spurs you refer to?

Mr. Greer: The timber spurs.

Examiner Burchmore: Yes.

Mr. Greer: Well, that is all the spurs we have, of course, except our sidings, with a little short siding in the timber.

Mr. Brown: Does your company own all of the tracks shown on this exhibit 1?

Mr. Greer: It does.

Mr. Brown: You heard Captain Meredith's testimony yesterday concerning the application of joint rates within the state of Louisiana, did you?

Mr. Greer: Yes, sir; I heard part of it.

Mr. Brown: What is the rule on your road here, do the
6025 joint rates—does the same rate apply from stations on your line as applies from Mangham to points in Louisiana?

Examiner Burchmore: You mean there is a joint state rate over your line?

Mr. Greer: Or interstate rates, both of them are the same.

Mr. Brown: That is true whether it be state or interstate shipments?

Mr. Greer: Yes.

Mr. Brown: So far as your road is concerned. Do you file tariffs with the Interstate Commerce Commission?

Mr. Greer: We do.

Mr. Brown: Have you got them with you so you can give the tariff references?

Mr. Greer: No, I have not. We have them filed with the Commission, though.

Mr. Brown: You make your annual and monthly reports to the Commission?

Mr. Greer: We do.

Mr. *Greer:* You filed your reports for the fiscal year ending June 30, 1910?

Mr. Greer: We have.

Mr. Brown: Do you pay taxes as a railroad company to the
6026 state of Louisiana?

Mr. Greer: We do.

Mr. Brown: Did you pay them last year?

Mr. Greer: Yes, sir.

Mr. Brown: The statement that you first read into the record shows the amount of that payment, does it?

Mr. Greer: I don't believe it does, but our annual report shows it.

Mr. Brown: I think it does.

Mr. Greer: I know it does.

Mr. Brown: I think the statement shows it, too. Are you recognized by the railroad commision of Louisiana as a common carrier, in that you file tariffs and comply with the rules and regulations of that commission?

Mr. Greer: We are.

Examiner Burchmore: Do you know of any railroad that is not so recognized in the state of Louisiana?

Mr. Greer: No, I do not, Mr. Examiner; in fact I know very little about it, that is, I mean whether they are recognized. I don't know anything about whether they are recognized or not. I would like to

say further in regard to our rates and our divisions, that that
6027 section over there is all under a heavy penalty in the way of rates as compared with surrounding territory. About forty miles west is Vicksburg, Mississippi, just about due west. Vicksburg has a 20 cent rate to Chicago and common points surrounding Chicago in that district on gum, and a 21 cent rate on oak, while our rate on both is 24 cents.

6028 Examiner Burchmore: Then you are under a four cent disadvantage?

Mr. Greer: We are under a four cent disadvantage on gum and I believe a three cent disadvantage on [illegible] Indiana points and Illinois points.

Examiner Burchmore: Well what division do you get on those points?

Mr. Greer: We get two cents.

Examiner Burchmore: That helps to overcome that disadvantage?

Mr. Greer: Yes, to that extent.

Examiner Burchmore: Are there any lines across the river in the Vicksburg territory that are getting allowances?

Mr. Greer. Well I don't know about that. I will say we also have a heavier disadvantage for eastern points. Rayville, 12 miles north of us, gets a six cent lower rate to Boston. When the Rayville rate was put in there about a year ago or perhaps less than that to New Orleans, I went to the Iron Mountain and wanted the same rate, for all the Rayville tonnage goes right through Mangham on the same line that we ship out on, but they take it to Natchez, across the river there with it and give it to the Y. &
6029 M. V., and put it into New Orleans at 10 cents; but ours must go by the Texas Pacific, Iron Mountain and Texas Pacific, thereby making it an intra-state rate or haul, and they said they could not give me a 10 cent rate into New Orleans, and I said I did not see why they could not do that. He sais because Rayville was a competitive point, and I expressed the opinion that it had been my idea that the prime object of the Commission was to prevent just that sort of thing, men at competitive points having an advantage over men at non-competitive points, but the Iron Mountain officials assured me that that was not true, they would not give me the rate, although I proposed to route my shipments the same as the Rayville shipments went, so that while our division to New Orleans may seem large on the total, it is really not as large as it ought to be to put us on a parity with our neighbors.

Examiner Burchmore: That was all an informal proceeding that you have just described?

Mr. Greer: Yes. At the same time or about that time rather, along the early part of last year, when they had published a cancellation of our divisions, I wrote the Interstate Commerce Commission, calling their attention particularly to this advantage on
6030 our New Orleans shipments. We have a good many shipments there for export. Of course I got the usual reply, that I would have to take the matter up in a formal way, and they

would appoint a time for hearing, but as this cancellation was held in abeyance, I did not pursue it further.

Mr. Brown: Mr. Greer, do you handle any what is called sheer outside business, that is, business other than the Stewart-Greer Lumber Company?

Mr. Greer: We do some, not a large amount.

Mr. Brown: Your statement shows it in detail?

Mr. Greer: Our statement shows that.

Mr. Brown: And the tonnage and earnings, does it?

Mr. Greer: Yes, sir.

Examiner Burchmore: I would like to know how much it is and what it consists of.

Mr. Brown: It is shown on the statement there.

Mr. Greer: Have you that statement there?

Examiner Burchmore: I have it here 141 carloads of grain shown here?

Mr. Greer: Yes.

Examiner Burchmore: Was that all handled for the public?

Mr. Greer: Yes.

Examiner Burchmore: Wasn't that used at all for your
6031 teams over there at Monroe?

Mr. Greer: No, we don't keep any teams at Monroe.

Examiner Burchmore: Is that hay and other farm products an outbound movement?

Mr. Greer: That is practically all inbound movement. I think it is all inbound. They are just opening up farmers' produce there. I would like to say in that connection though, Mr. Examiner, that our road runs through a district that is very fertile. This is hardwood, our territory is all hardwood, consequently the lands are strong, good agricultural lands.

Mr. Brown: Are there any farms opening up in there?

Mr. Greer: There are some. We are hauling out within the last year some little agricultural products. There is one little mill located out on our line has gone in there recently and we have hauled a little, only a few cars altogether of lumber out for them.

Mr. Brown: Would that mill have any transportation facilities, any railroad transportation facilities if this road was not there?

Mr. Greer: No, sir, is could not operate if we were not there.

6032 Mr. Brown: Does the road hold itself out to transport all shipments that are offered, and have you afforded facilities for transporting all that has been offered to you?

Mr. Greer: We have, always.

Examiner Burchmore: Here is 8,130 tons of lumber shown on your statement. How much of that was hauled for the Stewart-Greer people?

Mr. Greer: A large part, I should say ninety-nine per cent of it.

Examiner Burchmore: And the other forest products, 32,816 tons, was that their logs?

Mr. Greer: The greater part of that was logs and ties.

Examiner Burchmore: The 8,000 tons of lumber are all included also in the 32,000 tons of logs?

Mr. Greer: No, sir.

Examiner Burchmore: They had previously moved as logs?

Mr. Greer: Generally.

Examiner Burchmore: So one figure includes the other in a sense, a second movement of the same stuff?

Mr. Greer: Yes, sir.

Examiner Burchmore: What percentage of that 32,816 tons of other for-st products would you say was moved out on account
6033 of the Stewart-Greer Lumber Company?

Mr. Greer: I should say ninety-nine per cent of it.

Examiner Burchmore: Referring to your statement as to the stockholders of the railroad and lumber company, I notice that Mr. S. R. Greer owns what seems to be one-half of the stock of the lumber company, and a third of the stock of the railroad, or 99 shares out of 300.

Mr. Greer: That is true.

Examiner Burchmore: I presume the other share held by Mr. Wilson is really held in the interest of Mr. Greer?

Mr. Greer: It was, that is right.

Examiner Burchmore: Mr. Alexander Stewart and Mr. Walter Alexander both own shares in the railroad and also in the lumber company. I will ask you what relation, if any,—family relation, if any, exists between Alexander Stewart and Walter Alexander?

Mr. Greer: No family relation.

Examiner Burchmore: I noticed the Alexander. Are they related in a business way?

Mr. Greer: Yes, they are related in a business way.

Examiner Burchmore: Do you know what their connection is?

Mr. Greer: They are two of the three members of the
6034 Alexander Stewart Lumber Company of Wausau, Wisconsin, and they are interested in a good many other enterprises.

Examiner Burchmore: John Stewart is the third member of that concern?

Mr. Greer: Yes, sir, however, he is a brother of Alexander Stewart's.

Examiner Burchmore: Without further discussion, I assume from these statements that we may regard the railroad, the Mangham & North Eastern Railroad Company and the Stewart-Greer Lumber Company as substantially in interest, aside from any technical question of difference in corporation?

Mr. Greer: That is true.

Mr. Brown: There is a petition signed by some citizens of Mangham with respect to this railroad company, Mr. Examiner. I don't know whether—what its evidentiary value is. I would simply like to file it.

Mr. Greer: I just present that as an evidence of the interest that the people in that community take in it, how they regard the cancellation as working to the detriment of the railroad and also as affecting their interests.

Mr. Brown: I want to be perfectly frank with the Commission.

That petition was prepared by Mr. Greer, and the signatures
6035 affixed.

Examiner Burchmore: It will be received in evidence.

(The petition so offered and identified, was received in evidence and thereupon marked "Greer Exhibit No. 2, received in evidence, January 27, 1911," and is attached hereto.)

Examiner Burchmore: I will ask you only one question concerning it. Are any of the persons whose names are signed to that petition employés of the railroad or lumber company?

Mr. Greer: I don't think there is one on there, I am quite sure there is not. Those people are business people of the town of Mangham, and people who own timber out along our line or near our line.

Mr. Brown: That is all we have to offer. If you would prefer, we can have a tracing made that would be better for your record.

Examiner Burchmore: This is very satisfactory. I might suggest that you put in a small map on a smaller scale, showing the railroad from start to finish, with the private logging spurs, leaving out the mills.

Mr. Brown: We will file this petition as Greer Exhibit 2, and the map as Exhibit 3.

6036 Examiner Burchmore: Does the railroad own its logging cars?

Mr. Greer: It owns all the equipment.

Examiner Burchmore: You transport no passengers for hire?

Mr. Greer: No.

Examiner Burchmore: How many carloads would you estimate you transported last year?

Mr. Greer: I really have not thought about it, Mr. Examiner. I think our logging cars carry about 3,000 feet per load.

Examiner Burchmore: Perhaps you explained about the Iron Mountain connecting with you.

Mr. Greer: I did.

Examiner Burchmore: But I did not get the explanation. I thought that the connecting carrier was the New Orleans & North Eastern.

Mr. Greer: No, New Orleans and North Western.

Examiner Burchmore: And that was taken over by the Iron Mountain?

Mr. Greer: Yes, sir, they owned it for a number of years, but operated it as a separate line.

Mr. Brown: Taken over by the Iron Mountain under the consolidation?

6037 Mr. Greer: Yes, sir, they are all Iron Mountain now, for about a year past. They have a number of small lines down there in that country.

Examiner Burchmore: Where is your general office?

Mr. Greer: St. Louis.

Examiner Burchmore: This road was formerly owned by the Greer-Wilkinson Lumber Company of Indianapolis?

Mr. Greer: Yes, sir.

Examiner Burchmore: Did you mention that?
Mr. Greer: Yes, I mentioned that.
Examiner Burchmore: Did you say that the present lumber company—the present owners of that company bought out the railroad and mill and timber all at one transaction?
Mr. Greer: Yes, sir.
Examiner Burchmore: Has the road paid any dividends?
Mr. Greer: It has not.
Examiner Burchmore: Has it been losing money?
Mr. Greer: Yes, a little, not a great deal.
Mr. Brown: In that connection, I noticed you charge off 20% for depreciation?
Mr. Greer: Yes, sir.
Mr. Brown: That accounts entirely for your deficit last
6038 year, doesn't it?
Mr. Greer: Yes, it would if it had not been deducted for depreciation and charged off last year. That was charged for the reason that on account of our not operating—we did not operate at all in 1908, the year following the panic, we did not think it advisable to and we operated only about half of 1909, consequently the road was not kept up very much and ran down a good deal, necessitating charging off a heavier depreciation this last year.
Examiner Burchmore: And the mill quit cutting?
Mr. Greer: Yes, the working conditions were unfavorable.
Examiner Burchmore: And the railroad went out of business at the same time?
Mr. Greer: No, we operated some with the railroad, we shipped a little timber.
Examiner Burchmore: For yourselves or for other people?
Mr. Greer: And then we were shipping lumber for ourselves, we export some timber.
Examiner Burchmore: Do the officers of this railroad have any passes over interstate railroads?
Mr. Greer: I had one that expired the 31st of December, on the Iron Mountain.
6039 Examiner Burchmore: An annual interstate pass?
Mr. Greer: Annual, yes.
Examiner Burchmore: Any other railroad pass?
Mr. Greer: No.
Examiner Burchmore: Do the other officers of the railroad have any passes?
Mr. Greer: No.
Examiner Burchmore: Do you use that pass whenever you travel over the Iron Mountain?
Mr. Greer: I do.
Examiner Burchmore: Do you perform any service—do you work in the interest of the lumber company?
Mr. Greer: I am not an active member of the lumber company, only an active stockholder.
Examiner Burchmore: You never pay passenger fare when you travel over the Iron Mountain?

Mr. Greer: Not on the Iron Mountain.

Examiner Burchmore: You have stated that you owe the Stewart-Greer Lumber Company $12,000.00?

Mr. Greer: Yes, sir.

Examiner Burchmore: Is that evidenced by mortgage or bonds or anything?

6040 Mr. Greer: No, it is a book account.

Examiner Burchmore: What did this eight miles of railroad cost you to build, what is its total value?

Mr. Greer: We show the cost of extensions and betterments in our statement there.

Examiner Burchmore: Do you recall what it cost a mile on the average?

Mr. Greer: I think about $3,500.00.

Examiner Burchmore: Is it well built?

Mr. Greer: It is for that character of road.

Examiner Burchmore: Well, is it a substantial road?

Mr. Greer: Yes, sir.

Examiner Burchmore: Is it as well built *that* those that we have been talking about the last few days in this hearing?

Mr. Greer: I think it is a great deal better than some of them, and perhaps not as good as some of the others.

Examiner Burchmore: What do you think of a short line railroad that is worth $16,000.00 a mile in the woods?

Mr. Greer: It seems to be a pretty good price for one. It would depend on how many bridges they had to build, and how well constructed the line is.

Examiner Burchmore: You would look a road over pretty

6041 carefully before you bought it at that price?

Mr. Greer: I rather think I would.

Examiner Burchmore: You spoke of another little mill out there in the woods. Where do they ship their lumber to?

Mr. Greer: Well they ship it to different points.

Examiner Burchmore: To New Orleans?

Mr. Greer: I don't know that they have.

Examiner Burchmore: Any outside of the state at all?

Mr. Greer: Yes, ship some to Missouri.

Examiner Burchmore: They have quite a disadvantage in rates down there?

Mr. Greer: They have not, no.

Examiner Burchmore: Over Monroe?

Mr. Greer: They have no greater disadvantage than we have.

Mr. Brown: Do they pay the same rate that you do?

Mr. Greer: They pay the same that we do, exactly.

Mr. Brown: You give them the benefit of the joint through rate, do you?

Mr. Greer: Oh, yes, we must do that, because our joint tariffs cover all points on our road.

Examiner Burchmore: Where do they get their logs?

Mr. Greer: They get logs from some of the landowners

6042 around there adjoining ours.

Examiner Burchmore: They do not buy timber from you?

Mr. Greer: Adjoining the lands of the Stewart-Greer Lumber Company, I mean.

Examiner Burchmore: They do not buy any logs from you?

Mr. Greer: No.

Examiner Burchmore: How do they get their logs to the mill?

Mr. Greer: They have their little mill right in the timber.

Examiner Burchmore: Is their mill right on the railroad track?

Mr. Greer: No, it is about a quarter or a half a mile from our line.

Examiner Burchmore: They team the lumber?

Mr. Greer: Draw the lumber over there.

Examiner Burchmore: Have they demanded or have you demanded to put in a side track for them there, to their mill?

Mr. Greer: No, I have not. I don't think it is a large enough proposition as yet at any rate.

Examiner Burchmore: What is their capacity in carloads a week or a month?

Mr. Greer: If they were running daily they probably would turn out a carload a day.

6043 Examiner Burchmore: They make hardwood?

Mr. Greer: Yes, all hardwood.

Examiner Burchmore: Do you know what it costs them to team their lumber over to the railroad?

Mr. Greer: They do not team any in bad weather, you know, they could not.

Mr. Brown: Have you any knowledge on the cost of the teaming of the lumber that you might enlighten the Examiner somewhat?

Mr. Greer: I have a good deal of knowledge. In that country where the rainfall is about 60 inches for at least six months in the year, it is impossible to truck lumber or logs or any other heavy commodity a distance of two miles or one mile; in fact, we put our track—have our track put down there so that our haul is never to exceed a half a mile.

Examiner Burchmore: What, in your opinion, would it cost to cart lumber, say a mile or a mile and a half? How much per thousand, do you think, during the season of the year that it was possible to do it?

Mr. Greer: Well it would cost two dollars a thousand during the dry season, and in the wet season it could not be done at all.

6044 Examiner Burchmore: Then a logging road is—or I should say a railroad of some character to bring the logs from the woods up to the mill is absolutely essential to the operation of any mill of any capacity?

Mr. Greer: Yes.

Examiner Burchmore: It is impracticable to team logs?

Mr. Greer: Oh it would be impracticable, decidedly so.

Examiner Burchmore: It would be equally impracticable to team the lumber for any distance from a mill over to a railroad?

Mr. Greer: Oh, yes.

Examiner Burchmore: And the railroad, it is about as necessary to have a railroad running into a mill, or running out, or vice versa?

Mr. Greer: Yes, a mill which produces any capacity absolutely must have a railroad.

Examiner Burchmore: Is the competition as close in the hardwood market as in the pine market now?

Mr. Greer: I think it is.

Examiner Burchmore: Can you give us a statement of the tonnage, separating it between that furnished by the Stewart-
6045 Greer Lumber Company and by others, to check up with the statement you have given?

Mr. Greer: No, I could not do so, it is so very small. I do give this tonnage on that statement on agricultural products.

Examiner Burchmore: Do you make any charge for those agricultural products?

Mr. Greer: Oh, yes, sir.

Examiner Burchmore: How long have you been charging for those?

Mr. Greer: Just this last year.

Examiner Burchmore: I think that is all.

Mr. Greer: I think only part of this last year.

Mr. Brown: Do you have joint commodity rates?

Mr. Greer: Yes.

Mr. Brown: Joint commodity class rates?

Mr. Greer: Yes, sir.

Examiner Burchmore: That seems to be all, Mr. Brown.

6046 *Jefferson & Northwestern Railway Company.*

F. I. CLARK was called as a witness, and having been duly sworn, testified as follows:

Direct examination:

Examiner Burchmore: What is your name?

Mr. Clark: My name is F. I. Clark.

Examiner Burchmore: And you are the sole representative of the Jefferson & Northwestern Railway Company?

Mr. Clark: Yes, sir.

Examiner Burchmore: Mr. Clark, what is your connection with the Jefferson & Northwestern?

Mr. Clark: I am Vice-President and Manager.

Examiner Burchmore: How long have you been employed by this company in that capacity?

Mr. Clark: Well, I have been vice-president for the past ten years, I guess—ten years.

Examiner Burchmore: You are familiar with its operations?

Mr. Clark: Yes.

Examiner Burchmore: Has any other officer or employé of your company been present attending on this hearing?

Mr. Clark: No.

6047 Examiner Burchmore: You are thoroughly familiar with its practices, rates, and so forth?

Mr. Clark: Of the railway company?

Examiner Burchmore: Yes.

Mr. Clark: Yes.

Examiner Burchmore: You are also vice-president and general manager of a lumber company, of the Clark & Boice Lumber Company?

Mr. Clark: Yes.

Examiner Burchmore: How long have you been thus connected with that company?

Mr. Clark: For some time.

Examiner Burchmore: Who is president of the railroad?

Mr. Clark: A. B. Clark.

Examiner Burchmore: Are you in the same family?

Mr. Clark: Yes, he is my father.

Examiner Burchmore: He is also treasurer of the railroad company?

Mr. Clark: Yes, sir.

Examiner Burchmore: And occupies the same offices with the lumber company named?

Mr. Clark: Yes, sir.

6048 Examiner Burchmore: Who is secretary of this railroad?

Mr. Clark: C. E. Bancker.

Examiner Burchmore: And also secretary of the lumber company?

Mr. Clark: Yes, sir.

Examiner Burchmore: Are there any other officers of the railroad?

Mr. Clark: No, there are no others.

Examiner Burchmore: What employés has the railroad?

Mr. Clark: It has a bookkeeper, a roadmaster, master mechanic and trainmen, section men.

Examiner Burchmore: How many train men or how many train crews?

Mr. Clark: Well we always operate one and sometimes two.

Examiner Burchmore: How many section gangs?

Mr. Clark: Three.

Examiner Burchmore: Any other employés of the railroad, any agents?

Mr. Clark: None except that the bookkeeper acts as agent at North Jefferson.

Examiner Burchmore: And that bookkeeper is also employed by the lumber company?

6049 Mr. Clark: Yes, sir.

Examiner Burchmore: What is his pay or salary?

Mr. Clark: Well I would not be sure, but the railroad company pays half and the lumber company half, I think.

Examiner Burchmore: How about the roadmaster and the master mechanic?

Mr. Clark: They are entirely employés of the railroad company.

Examiner Burchmore: Do any of the officers of this railroad receive salaries?

Mr. Clark: Yes, the Secretary, Mr. Bancker, receives a salary.

Examiner Burchmore: His salary is divided between the two companies?

Mr. Clark: Yes, sir, divided.

Examiner Burchmore: What is the total mileage of this railroad?

Mr. Clark: It has now 32 miles of main line and about 3 miles of spur track.

Examiner Burchmore: You refer to the main line. Is that main line permanently located?

Mr. Clark: Permanently located.

6050 Examiner Burchmore: How long has it been permanently located where it is now? Has it ever been changed about any?

Mr. Clark: No, the mileage has always been just as it is.

Examiner Burchmore: But the spur tracks have been moved from time to time?

Mr. Clark: Yes, sir.

Examiner Burchmore: Has the lumber company or has any lumber company any private spur tracks connected with this railroad?

Mr. Clark: No, none whatever.

Examiner Burchmore: Then the private spur tracks that go into the woods which is being logged by this lumber company are owned by the railroad company?

Mr. Clark: Owned and operated by the railroad company, constructed by the railroad company.

Examiner Burchmore: And the lumber companies own the engines or cars?

Mr. Clark: No, sir, none.

6051 Examiner Burchmore: How many has the railroad?

Mr. Clark: The railroad has two locomotives and about twenty-five cars.

Examiner Burchmore: They are equipped with safety appliances?

Mr. Clark: The locomotives are; the cars are logging cars.

Examiner Burchmore: You have no cars that are not logging cars?

Mr. Clark: No.

Examiner Burchmore: Do you transport anything except logs?

Mr. Clark: Yes, we transport all kinds of commodities.

Examiner Burchmore: What do you carry the other commodities on?

Mr. Clark: We carry them on the cars of the trunk lines.

Examiner Burchmore: But you have no cars of your own that are loaded with anything?

Mr. Clark: We have two flat cars that we operate, we haul merchandise on them, or logs, either one.

Examiner Burchmore: Are those equipped with couplers?

Mr. Clark: No.

6052 Examiner Burchmore: You know the Safety Appliance Act requires common carriers to equip any car and all cars——

Mr. Clark: They are strictly logging cars, that is what they are. They are skeleton built logging cars with a platform in between.

Examiner Burchmore: But the exception in favor of logging cars in the act covering safety appliances concerns only logging cars which are used purely for logging purposes on which no other freight is loaded, so that apparently you need some information on that point. I simply state it for information.

I understand that the stockholders of the Clark & Boyce Lumber Company own the majority of the stock of the Jefferson & Northeastern Railway?

Mr. Clark: The distribution of the stock is the same in both the lumber company and the railroad company.

Examiner Burchmore: Could the Jefferson & Northeastern Railway be profitably operated or could it in fact continue to operate even at a loss—is its financial condition such that it could continue to operate if the traffic supplied by the Clark & Boyce Lumber Company were cut off from it?

Mr. Clark: Well, I think it could, yes. It produces
6053 enough—has enough tonnage to operate it for that tonnage alone, without the Clark & Boyce Lumber Company tonnage.

Examiner Burchmore: How long, in your opinion, has that state of affairs existed?

Mr. Clark: That change in operating the line?

Examiner Burchmore: Yes.

Mr. Clark: Well, I presume that it has continued for some time, a number of years.

Examiner Burchmore: As much as a year?

Mr. Clark: Yes.

Examiner Burchmore: The report on file with the Commission in its bureau of statistics and accounts, by an Examiner of Accounts who visited the property in January, 1910, and who conferred with the officers of your company, reports that the question: "Could the industrial railroad", meaning this railroad, "be profitably operated without the traffic supplied by the controlling interests", was answered by an official of your company: "Not under present conditions". Would you say that that answer was not a correct one?

Mr. Clark: Well, there is some considerable doubt about it. I feel satisfied in my mind that it could run without the business of the lumber company.

6054 Examiner Burchmore: How much business have you—how much revenue have you received during the past year, or during any given period, on revenue that was not supplied by the Clark & Boyce Lumber Company?

Mr. Clark: Well, I have a statement here showing the revenue for the past year, the business for the year 1910, that is, from January 1st to December 31st, 1910.

Examiner Burchmore: This is for the calendar year 1910?

Mr. Clark: Yes, the calendar year.

Examiner Burchmore: Was this statement prepared under your direction?

Mr. Clark: Yes, sir.

Examiner Burchmore: Will you file it as an exhibit?

Mr. Clark: Yes, sir.

The statement so offered and identified, was received in evidence and thereupon marked Clark Exhibit No. 1, received in evidence January 27, 1911, and is attached hereto.

Examiner Burchmore: You have north bound and south bound. In which direction——

Mr. Clark: It means in and out.

Examiner Burchmore: In bound is south bound,—how would you construe it?

6055 Mr. Clark: I don't know; the reason I said that, north and south. I did not know which way that would be meant, in and out.

Examiner Burchmore: Is the south bound business going away from you or coming towards your line?

Mr. Clark: The south bound coming toward the junction point.

Examiner Burchmore: Then the south bound stuff is the stuff that you turn over to the connecting railroad?

Mr. Clark: Yes, sir.

Examiner Burchmore: This shows the total traffic as 46,289 tons, with a total revenue of $28,889.25, and apparently shows that 86 per cent of revenue and 81 per cent of the tonnage came from the Clark & Boyce Lumber Company?

Mr. Clark: Yes.

Examiner Burchmore: Now, I observe in that statement 23 cars of iron ore. Who furnished that tonnage?

Mr. Clark: To explain that I will have to elaborate a little. This whole country that that road goes through has a large amount of iron ore and at Jefferson there is an iron furance which was built in 1888.

Examiner Burchmore: Where is that located, I might ask?

6056 Mr. Clark: It is right adjacent to the sawmill of the Clark & Boyce Lumber Company.

Examiner Burchmore: Do you have any interest in it?

Mr. Clark: No, none whatever, and it was operated by three different parties since then, three or four different parties. In 1899, when the Jefferson & Northwestern Railway Company was incorporated, it made a contract with this iron company, which was the Jefferson Iron Company, to furnish all of the wood and ore which it used, and the iron company operated a furnace there for about a year and practically all of its wood—it was a charcoal furnace, and the ore was furnished by the Jefferson & Northwestern Railway Company under a contract.

Examiner Burchmore: Where did you haul it from?

Mr. Clark: From out on the line, various places. Well, the furnace ran for about a year and went out of business.

Examiner Burchmore: During what part of the year 1910 was it running?

Mr. Clark: Well, it did not run during 1910.

Examiner Burchmore: You have got 23 car loads of ore moved in 1910.

Mr. Clark: Well, that particular ore had no connection
6057 with the furnace, but I wanted to explain the condition of the ore in that country, the fact that there is ore that has been made into iron, and this particular shipment that is shown on this statement was gotten out and shipped by a company which took leases on all the iron ore land that they could get in the country, and are organizing a company to mine and ship this ore to what ever market they can find. This particular shipment went to Philadelphia, by way of Galveston, and that was gotten out as a sample shipment and went to Philadelphia. They propose to develop that entire country, and as a matter of fact we are negotiating with them to sell them the railroad and operate it at the present time. During 1899, and several periods later, the tonnage of iron ore and wood for this Jefferson Iron Company was at least half, 50 per cent of the—I will take that back,—I mean as great as the tonnage of the Clark & Boyce Lumber Company.

Examiner Burchmore: I will ask you, Mr. Clark, whether the officers of your company have any passes over trunk line railroads?

Mr. Clark: No, but we have over the M. K. & T. three passes.

Examiner Burchmore: System passes?

6058 Mr. Clark: Well, last year we had one system pass and two Texas passes, I don't know what we have this year.

Examiner Burchmore: What officers of your railroad have such passes?

Mr. Clark: President, vice-president and secretary.

Examiner Burchmore: They use those passes whenever they travel, do they?

Mr. Clark: Yes, sir.

Examiner Burchmore: Do they travel very much on railroad business, purely railroad business?

Mr. Clark: Why, yes, they travel a good deal on railroad business.

Examiner Burchmore: Do you file annual reports with the Interstate Commerce Commission?

Mr. Clark: We have been filing——

Examiner Burchmore: Accident reports?

Mr. Clark: Yes, accident reports.

Examiner Burchmore: Any other reports?

Mr. Clark: I think the annual report we make, and I will say that I have noticed these reports that have been made by other railroads here, and in 1903, I think it was, we were sent a report in
6059 that book form, covering those large reports. We wrote to the Commission and told them that we were not prepared to fill out those reports, and they sent a smaller report for us to make. I don't remember just exactly what form that was, in fact I don't remember much about it, except that some form of annual report has been made out covering all of the facts as shown in those large books.

Examiner Burchmore: You did not file any——

Mr. Clark: Since then we have never been requested to make any other kind of a report by the Commission.

Examiner Burchmore: I might say, Mr. Clark, that the act to regulate commerce requires all railroads that are subject to its juris-

diction to make annual reports to the Interstate Commerce Commission, and it is not within the power of the Interstate Commerce Commission to excuse any such carrier, nor is it——

Mr. Clark: You know to what I refer, those smaller reports, giving mileage, or something; I don't remember what they did give.

Examiner Burchmore: The act to regulate commerce, of course, speaking for itself, it requires annual reports from carriers showing certain forms of information. Now, I understand that you
6060 made some reports in 1903 or 1904, but have not made any since, what we call annual reports.

Mr. Clark: We did not report in 1903, I don't think we have ever made one of those large book form reports.

Examiner Burchmore: Have you made any other sort of a report except accident reports, year by year?

Mr. Clark: Yes, we have made out a small report of some kind. I don't recall just what was on it; it was some form furnished by the Interstate Commerce Commission.

Examiner Burchmore: I will look into that and see what has been filed.

Mr. Clark: I will say that we can fill out those reports. We keep our books in accordance with the rules of the Interstate Commerce Commission.

Examiner Burchmore: You have got the rules and obey them?

Mr. Clark: Yes.

Examiner Burchmore: Did I ask you about your rates and divisions?

Mr. Clark: No.

Examiner Burchmore: What kind of lumber does the Clark & Boyce Company manufacture?

Mr. Clark: Pine.

6061 Examiner Burchmore: You have joint rates with the Rock Island to interstate destinations?

Mr. Clark: No, the M. K. & T.

Examiner Burchmore: With the M. K. & T., I mean.

Mr. Clark: Yes, sir.

Examiner Burchmore: To interstate destinations. Do you have any with the Texas & Pacific?

Mr. Clark: No.

Examiner Burchmore: Just with the M. K. & T.?

Mr. Clark: That is all.

Examiner Burchmore: Have you ever had any with the Texas & Pacific?

Mr. Clark: Yes, sir, we used to have them.

Examiner Burchmore: When were they cut out?

Mr. Clark: But we never had them interstate with the T. & P. We had intrastate in Texas with the T. & P., up until 1903 or 1904.

Examiner Burchmore: Are you recognized by the State Commission of Texas?

Mr. Clark: Not at the present time, no.

Examiner Burchmore: Have you ever been recognized by them?

6062 Mr. Clark: Yes, sir.

Examiner Burchmore: And they do not recognize you now?

Mr. Clark: No.

Examiner Burchmore: Do you know why they don't, any reason assigned?

Mr. Clark: It is the same, I guess, as most all similar roads in Texas. We have never made any—since 1903 and '4 they cut out us, among a great many logging roads and we never made any application to them to be recognized.

Examiner Burchmore: When was this railroad built?

Mr. Clark: It was started in about 1892.

Examiner Burchmore: Did this same corporation own it then?

Mr. Clark: No.

Examiner Burchmore: Who did own it?

Mr Clark: It was owned by—the first part of it was built by the Clark & Boyce partnership.

Examiner Burchmore: When was the railroad incorporated?

Mr. Clark: In 1899.

Examiner Burchmore: You were with it then?

Mr. Clark: Yes.

Examiner Burchmore: When was the mill built?

6063 Mr. Clark: The mill was built in 1881.

Examiner Burchmore: They operated for some time without any tram road?

Mr. Clark: Yes, sir, there was a river there, floated logs on the river.

Examiner Burchmore: Is the mill on the river now?

Mr. Clark: Well, it is not the identical mill there now that was there, built in 1881. The mill that is there now is a little way off from the river, but on the same ground that the original mill was.

Examiner Burchmore: Do you get any of your logs down by water?

Mr. Clark: We don't now, no; we did at that time.

Examiner Burchmore: How long has it been since you brought down any of your logs by water?

Mr. Clark: Not since the railroad was built.

Examiner Burchmore: Not since 1892?

Mr. Clark: About 1892.

Examiner Burchmore: Then this railroad was built originally to get logs down to the mill?

Mr. Clark: Yes.

Examiner Burchmore: Is the mill directly on the M. K.

6064 & T. railroad tracks?

Mr. Clark: No, it is not.

Examiner Burchmore: How far away from the M. K. & T.?

Mr. Clark: It is a little over a mile.

Examiner Burchmore: How far is it from the Texas & Pacific?

Mr. Clark: It is very close to the Texas & Pacific.

Examiner Burchmore: A quarter of a mile?

Mr. Clark: Hardly that much.

Examiner Burchmore: Do you have any track running directly from the mill to the T. & P. Railway?

Mr. Clark: Yes, sir.

Examiner Burchmore: I mean any track besides this railroad's track?

Mr. Clark: No, it is the Jefferson & Northwestern has a connection with the T. & P.

Examiner Burchmore: How long have you been receiving divisions on interstate rates?

Mr. Clark: Since 1905.

Examiner Burchmore: Then previous to 1905 you got along without any divisions?

Mr. Clark: No, we had divisions with the intrastate at that time.

6065 Examiner Burchmore: You were shipping lumber previous to 1905 to interstate points?

Mr. Clark: No, very little.

Examiner Burchmore: All state points?

Mr. Clark: All state.

Examiner Burchmore: Then you put in interstate divisions as soon as you began shipping extensively outside of the state?

Mr. Clark: Interstate.

Examiner Burchmore: What are the amounts of your joint rates with the M. K. & T., the same as the rates from the M. K. & T. on their line?

Mr. Clark: Yes, sir.

Examiner Burchmore: No higher?

Mr. Clark: No higher.

Examiner Burchmore: What are your divisions?

Mr. Clark: From two to five cents.

Examiner Burchmore: On what traffic do you get only two cents?

Mr. Clark: Some points on the Rock Island, as low as two cents.

Examiner Burchmore: What is your average, your usual

6066 division?

Mr. Clark: It is very near five cents.

Examiner Burchmore: As a matter of fact, that seems to be confirmed by looking at that statement. I notice on 10,200 tons of lumber you get $9,183.72, which is nearly a dollar a ton. I have not asked you what the name of the junction points with the other railroads are.

Mr. Clark: The junction is Jefferson.

Examiner Burchmore: You join the M. K. & T. at Jefferson?

Mr. Clark: Yes, sir.

Examiner Burchmore: Where do you join the Texas & Pacific?

Mr. Clark: At Jefferson.

Examiner Burchmore: A different part of Jefferson?

Mr. Clark: Yes, sir.

Examiner Burchmore: Is Jefferson much of a town?

Mr. Clark: Yes, about 4,000 people, I guess, four or five.

Examiner Burchville: Is your mill at Jefferson?

Mr. Clark: No, the mill is at North Jefferson.

Examiner Burchmore: What stations are there on your line?

Mr. Clark: There is Lanier and Luana.

6067 Examiner Burchmore: Are there any towns at those places?

Mr. Clark: There is a town at Luana.

Examiner Burchmore: What is the size of that town and what is the character?

Mr. Clark: Just a country village and post office, and a couple of stores and a cotton gin; I suppose 100 people right there. The entire road, however, I should say, the entire 32 miles of the road, 75 per cent of it goes through farms.

Examiner Burchmore: Where is the timber located along the road?

Mr. Clark: The timber is scattered through these farms.

Examiner Burchmore: Is there quite a large body at the far end of the road?

Mr. Clark: Of course during the past twenty years that this road—since the line was built, the timber has been cut off, and the land has been made into farms.

Examiner Burchmore: Clark & Boyce cut over most of that land, didn't they?

Mr. Clark: Yes, sir.

Examiner Burchmore: And they own the timber at the far end of the line?

6068 Mr. Clark: Yes, sir.

Examiner Burchmore: There are private logging spurs at the far end of the line?

Mr. Clark: I don't know what you mean by that. They are owned and operated by the railroad.

Examiner Burchmore: They run into the woods?

Mr. Clark: For the lumber company.

Examiner Burchmore: What is the extent of the timber holdings of the Clark & Boyce Lumber Company in this vicinity? Express it in feet, acres, or any other way.

Mr. Clark: About fifty million feet.

Examiner Burchmore: How long will it take you to cut that out?

Mr. Clark: About four or five years.

Examiner Burchmore: What will you do when that is gone?

Mr. Clark: The mill will be abandoned.

6069 Examiner Burchmore: What about the railroads?

Mr. Clark: The railroads will continue to operate. I will say that we are constructing and building road right along. We are now—the end of the road is now within about twelve miles of the Cotton Belt. We are down in that neighborhood and we are working as fast as we can today to get that line up——

Examiner Burchmore: Do you run through any more timber?

Mr. Clark: No, there is no more timber.

Examiner Burchmore: What is the purpose of making that connection?

Mr. Clark: Simply to have a railroad.

2475

Examiner Burchmore: Might it be suggested that you are building across to the Cotton Belt in order to sell the line you have now, to save it?

Mr. Clark: That is our idea exactly. We have considered it a valuable property and expect to get more than it has cost us out of it in some way, either by the sale of the property or by the operation of the road.

Examiner Burchmore: Are there any other saw mills along your line?

6070 Mr. Clark: There are a number of small saw mills and shingle mills that ship over our road. The past two or three years, however, have been so hard on lumber people that a great many of these small mills have not been run very extensively. In years past we have handled a great deal more outside lumber than we did in the last year.

Examiner Burchmore: Could you conveniently prepare a list of those other mills, giving the names of the owners, some idea of the capacity, where they are located, is there a station on the line from which they ship, whether they are on your railroad or whether they team their lumber across?

Mr. Clark: Yes, sir.

Examiner Burchmore: Indicating how much they have shipped?

Mr. Clark: Yes, sir.

Examiner Burchmore: And you may give any other information that you want. Are any of these independent mills owned by the Clark & Boyce Lumber Company?

Mr. Clark: No.

Examiner Burchmore: They do not buy any of their timber from you?

Mr. Clark: No, sir.

Examiner Burchmore: What rates do they pay?

6071 Mr. Clark: Just pay the joint rates, unless it is intrastate, in which we have to pay a division of the local.

Examiner Burchmore: Clark and Boyce have a combination of the locals on state business?

Mr. Clark: Yes, but they do not pay them, however.

Examiner Burchmore: Do not ship any?

Mr. Clark: No.

Examiner Burchmore: Let me ask you whether any of these mills have to team their logs to the mill?

Mr. Clark: Yes, they all do.

Examiner Burchmore: Do they have to team their lumber over to the railroads?

Mr. Clark: Yes, sir.

Examiner Burchmore: They bear that cost in addition to the joint rate?

Mr. Clark: Yes.

Examiner Burchmore: Does the railroad haul logs from the woods down to the mill for Clark & Boyce?

Mr. Clark: Yes, sir.

Examiner Burchmore: What compensation do they receive for that?

Mr. Clark: Five dollars a car.

6072 Examiner Burchmore: Clark & Boyce pay five dollars a car?

Mr. Clark: Five dollars a car.

Examiner Burchmore: When the lumber is shipped out do you call that a separate transaction entirely?

Mr. Clark: Absolutely.

Examiner Burchmore: You do not refund that five dollars?

Mr. Clark: No, sir.

Examiner Burchmore: The rates are not on a milling in transit basis?

Mr. Clark: No.

Examiner Burchmore: Applied simply from the mill, I mean on such shipments.

Mr. Clark: Yes, sir.

Examiner Burchmore: You also issue bills of lading?

Mr. Clark: Yes, sir.

Examiner Burchmore: Waybills?

Mr. Clark: Well, we do not make the waybills; we make expense bills and we issue an expense bill against the M. K. & T. for each shipment, and also against the Clark & Boyce Lumber Company for each shipment, or anybody else, whoever it is.

Examiner Burchmore: I see.

6073 Mr. Clark: There is only one station, that is at North Jefferson, where there is an agent and there is no necessity for way bills.

Examiner Burchmore: Then the M. K & T. pays you your proportion?

Mr. Clark: Yes, sir.

Examiner Burchmore: Pays you at the time you give them the cars, or monthly?

Mr. Clark: Monthly, we make a statement monthly, and a settlement covering both inbound and outbound freight, the business that is handled interchangeably between the two lines.

Examiner Burchmore: You make that statement with the general office of the M. K. & T.?

Mr. Clark: No, with the agent at Jefferson.

Examiner Burchmore: You say you pay $5.00 a car for getting those logs to the mills?

Mr. Clark: Yes, sir.

Examiner Burchmore: How long has that been the practice?

Mr. Clark: We figure that $2.00 a thousand feet.

Examiner Burchmore: Logging scale?

6074 Mr. Clark: Logging scale.

Examiner Burchmore: Is that more or less than $5.00 a car?

Mr. Clark: It is about the same.

Examiner Burchmore: It is simply more convenient to pay by the car?

Mr. Clark: Per car, and it makes a better record of the movement.

Examiner Burchmore: Has the Jefferson and Northwestern Railway Company any contract with the Clark & Boyce Lumber Company?

Mr. Clark: No, sir.

Examiner Burchmore: Of course you have a verbal agreement, I suppose, concerning those logs?

Mr. Clark: Yes, sir.

Examiner Burchmore: Do you publish any tariffs covering the logging charge?

Mr. Clark: No.

Examiner Burchmore: Is there any contract between the Jefferson & Northwestern and the Missouri, Kansas & Texas Railway?

Mr. Clark: Yes, sir.

6075 Examiner Burchmore: I mean the M. K & T. of Texas.

Mr. Clark: Well, I don't know. I don't think that—I think that contract has expired. There was one made to run a year, and I don't know that another one has been made or not.

Examiner Burchmore: I have a contract dated May 1, 1906, or February 1, 1906.

Mr. Clark: I think that is the last one that we made. We just renewed that from year to year, and finally dropped it.

Examiner Burchmore: What was the essence of that contract?

Mr. Clark: The essence of it was that by the provisions we were to get for business of all kinds which we gave to the M. K. & T. Railway——

Examiner Burchmore: And it also provided that you would give them all of the tonnage, didn't it?

Mr. Clark: I don't think it did. I made that contract and I have not looked at it in so long I have forgotten just what its provisions were.

Examiner Burchmore: As far as practicable, as far as it may be done consistently with the laws of the state of Texas, and

6076 with existing contracts, the parties hereto agree to interchange business exclusively with each other, and the division of revenue from traffic interchanged between them will be as follows: Lumber, 5 cents; cotton to Shreveport 50 cents; cotton to Massachusetts, etc., 20 cents per 100 pounds, and so on. I did not read the division concerning the division of rates. Doesn't that article seem to provide for exclusive interchange with them?

Mr. Clark: I do not understand it so.

Examiner Burchmore: The parties hereto agree to interchange business exclusively?

Mr. Clark: At any rate it has not been adhered to, because we give some business to the T. & P.

Examiner Burchmore: That contract is on file with the Commission?

Mr. Clark: That contract is on file with the Commission.

Examiner Burchmore: I have not read it carefully.

Mr. Clark: There is one question that may come in your mind on looking over that contract. I call your attention to one clause in there which may bother you and I want to explain. This provides

that the M. K. & T. engines shall do the switching.

6077 Examiner Burchmore: To and from the mill?

Mr. Clark: To and from the mill. At the time that the contract was made the Jefferson & Northwestern was narrow gauge.

Examiner Burchmore: When was it made standard gauge?

Mr. Clark: It was made standard gauge about three years ago, and the Jefferson and Northwestern had no engines with which to do switching, but ever since they have been—the Jefferson & Northwestern has changed its gauge, it has been doing its own switching and turning its cars over to the M. K. & T. at Jefferson, and the contract connection which was contemplated in that contract was built by the Jefferson & Northwestern a little over a mile, and has been operated and kept up by them since.

Examiner Burchmore: I am glad you undertook to explain that. I have another contract here which looks like the same kind of a contract made May 4, 1908, looks like the same contract.

Mr. Clark: I guess that is a repetition. Those were made from year to year, I think.

Examiner Burchmore: No, it is different. This is a trackage right to your company to operate its engines from Jefferson

6078 to Clark's Spur, for the purpose of hauling logs to your mill. Have you that trackage right still?

Mr. Clark: I don't know whether it is still in effect or not. We have not used it. We used it at that time and discontinued it.

Examiner Burchmore: To get out all your lumber?

Mr. Clark: Yes.

Examiner Burchmore: What did you charge for going up there and getting logs for them?

Mr. Clark: For the lumber company?

Examiner Burchmore: Yes, do you remember what you charged them the same charge, $2.00 per car?

Mr. Clark: Just the same, $5.00 or $2.00 a car.

Examiner Burchmore: $2.00 a car?

Mr. Clark: Yes, sir, at that time it was $2.00 a car and afterwards it was changed, as I said, to $5.00 per car. If I am not mistaken that provides for a charge to the M. K. & T. for $2.00 per car.

Examiner Burchmore: Who paid that?

Mr. Clark: The railroad company.

Examiner Burchmore: And you paid how much, $2.00 per car and received approximately $5.00?

6079 Mr. Clark: But the railroad company operated the entire service aside from furnishing the track.

Examiner Burchmore: I mean the Jefferson & Northwestern got $3.00 for the service it performed?

Mr. Clark: Yes.

Examiner Burchmore: Approximately $3.00?

Mr. Clark: Yes.

Examiner Burchmore: There are two large tie camps near the road?

Mr. Clark: Yes, sir.

Examiner Burchmore: You got $3.00 for the haul from your road?

Mr. Clark: Yes, sir.

Examiner Burchmore: Do you handle any other traffic for them up there?

Mr. Clark: Yes, sir, we handle a good deal.

Examiner Burchmore: Who are Hussey & Whelan?

Mr. Clark: They are tie contractors. They also have a mill on our line which they use for cutting bolts.

Examiner Burchmore: You have a contract with them dated July 30, 1909, but I don't seem to have a copy of that contract.

6080 Mr. Clark: Yes, sir.

Examiner Burchmore: Are you hauling ties for them under that contract?

Mr. Clark: Yes, sir.

Examiner Burchmore: What do you charge them?

Mr. Clark: Ten dollars a car.

Examiner Burchmore: From where to where?

Mr. Clark: From as far as Lanier, I think, possibly a little further.

Examiner Burchmore: What distance is that?

Mr. Clark: I have forgotten the distance. It only provides for a certain distance out on the line. It does not cover the entire line at that rate.

Examiner Burchmore: It shows between Jefferson and Luana.

Mr. Clark: Yes.

Examiner Burchmore: It does not give the distance.

Mr. Clark: No, Luana is eighteen miles.

Examiner Burchmore: Who furnishes the cars for those movements?

Mr. Clark: Whatever line it goes out over.

Examiner Burchmore: Have you any tariff to cover that ten dollar charge?

6081 Mr. Clark: Get that contract.

Examiner Burchmore: Is that sufficient compensation to you for that service?

Mr. Clark: Yes, sir.

Examiner Burchmore: You do not regard it as entirely inadequate?

Mr. Clark: No.

Examiner Burchmore: I have here what seems to be a copy of a letter filed by Mr. Barr, under date of January 7, 1909, to the National Lumber Cross Tie Company of Texarkana, wherein he quotes a rate of $10 a car on hewn gum, pine, cross-ties, poles, and stulles from any point on the Jefferson & Northwestern less than 18 miles out into Jefferson, prescribing the maximum load. Do you know whether they have been shipping anything under that?

Mr. Clark: Yes.

Examiner Burchmore: Are they still shipping?

Mr. Clark: Yes, sir.

Examiner Burchmore: And you are charging them ten dollars?

Mr. Clark: Yes, they ship—they have a large amount of those ties.

6082 Examiner Burchmore: I will ask you whether the ten dollar charge is a sufficient compensation for hauling those cars ten miles?

6083 Mr. Clark: I think so, that is, we are satisfied with it.

Examiner Burchmore: Can you give me a statement supplementing that you have placed in evidence, showing the amount of freight taken to and from each station on your line, by stations? Can you readily make up such a statement?

Mr. Clark: Covering what period?

Examiner Burchmore: Covering the calendar year 1910.

Mr. Clark: Yes, I can do that.

Examiner Burchmore: If you will, please.

Mr. Clark: Let me make a note of that.

Examiner Burchmore: Submit a statement of tonnage, station by station, in and out. I would also like a second statement containing more figures than the one you have put in evidence, or at least some final figures showing in one column Clark & Boyce traffic, and in the other column public traffic.

Mr. Clark: Yes.

Examiner Burchmore: You have not separated it on the basis of the statement herewith, you have just separated it in a footnote. Will you also furnish us with a map of your line showing mills, and so forth, into which——

Mr. Clark: I heard you describe the kind of a map that

6084 you wanted.

Examiner Burchmore: What is the average amount of money that you receive on a carload of lumber that comes from the Clark & Boyce Lumber Company mill and moves out over the M. K. & T.? What is your average division on a car?

Mr. Clark: About $22.

Examiner Burchmore: What service do you perform for that division?

Mr. Clark: We bring in the empties from Jefferson and place them at the loading platform and carry the loads back, that is, we would haul the logs in from the woods and deliver them.

Examiner Burchmore: I thought you had already been paid for hauling the logs $5 a car?

Mr. Clark: We are, but that might not be sufficient if the other was not taken into consideration; in fact it shows that it would not.

Examiner Burchmore: Your mill is three or four miles from the M. K. & T.?

Mr. Clark: A little over a mile.

Examiner Burchmore: A mile?

Mr. Clark: Yes, sir.

Examiner Burchmore: Suppose this railroad was taken up,

6085 suppose there was not any railroad between *the* your line and the M. K. & T., how long could your mill keep going? How long could you continue to sell lumber and team it across?

Mr. Clark: We could not do it at all.

Examiner Burchmore: So that that railroad across there is absolutely essential, of course for your operation?

Mr. Clark: It is.

Examiner Burchmore: It is just as essential as the M. K. & T. itself, is it?

Mr. Clark: Yes, sir.

Examiner Burchmore: Is it practical to team your logs to the mills from the woods?

Mr. Clark: It is impossible.

Examiner Burchmore: How far are your woods from the mill?

Mr. Clark: Thirty-two miles.

Examiner Burchmore: Than you have got to have a railroad from the woods down to the mill?

Mr. Clark: Yes, sir.

Examiner Burchmore: And that railroad is about as necessary as the other railroad, isn't it?

Mr. Clark: Yes, sir.

Examiner Burchmore: Both the railroad in and the rail-
6086 road out?

Mr. Clark: Yes, sir.

Examiner Burchmore: They are both essential to the operation of the mill?

Mr. Clark: Yes, sir.

Examiner Burchmore: You say these little mills that are out along your line do manage to continue in business with the short team haul that they have?

Mr. Clark: Yes, a very small business, however.

Examiner Burchmore: They, however, come under interstate shipments?

Mr. Clark: Yes, their shipments are all interstate; that is, if they get the benefit of the through rate. Occasionally they will ship intrastate or with a combination of local rates, but they do just exactly the same as the Clark & Boyce Lumber Company does, they sell their lumber outside of the state so as to get the benefit of lower rates and use their published rate.

Examiner Burchmore: Is there any other statement that you care to make, Mr. Clark?

Mr. Clark: Why——

Examiner Burchmore: I have no further questions.

6087 Mr. Clark: I do not know of anything except things that have occurred to me in connection with the questions which have been asked that I have heard of some of the others, and that is in regard to the discrimination against the mill that did not get a division for its line of railroad. I say that we own and operate a mill on the Texas & Pacific, I think about twenty-five miles north of Jefferson which gets no tap line division.

Examiner Burchmore: They have a branch logging line?

Mr. Clark: They have a logging road.

Examiner Burchmore: Is it incorporated?

Mr. Clark: Not incorporated.

Examiner Burchmore: What is the name of it?

Mr. Clark: It has no name, and that that mill operated on the road as an expense department of the mill makes its lumber cheaper than the mill in Jefferson.

Examiner Burchmore: Well, it does not haul its logs in 32 miles.

Mr. Clark: No, it does not, and that is why I say that a mill that is not incorporated does not get anything, is not discriminated against.

Examiner Burchmore: As a matter of fact in that par-
6088 ticular case it is not, but what distance do they haul their logs?

Mr. Clark: About five miles.

Examiner Burchmore: How big a railroad have you got?

Mr. Clark: That is the extent of the railroad.

Examiner Burchmore: Good condition, light rail?

Mr. Clark: Light rail, not anything like the same kind of a road that the Jefferson & Northwestern is.

Examiner Burchmore: Are there any other mills on that private road up there?

Mr. Clark: No, one at this place——

Examiner Burchmore: Yes or no.

Mr. Clark: No, sir.

Examiner Burchmore: Will you tell me where that mill is?

Mr. Clark: This was Kildare. Bancker is the name of the place. the post-office of Kildare, and the capacity of that mill is 40,000 feet a day.

Examiner Burchmore: And your other mill is how much?

Mr. Clark: Fifty.

Examiner Burchmore: You have a private logging road up there?

Mr. Clark: Yes, sir.

Examiner Burchmore: Is there anybody else in the vicinity
6089 of that logging road that uses it for any purpose?

Mr. Clark: No, sir.

Examiner Burchmore: It is just used as a part of the mill?

Mr. Clark: Part of the mill proper. It is entirely different from the service performed by the Jefferson & Northwestern road, the circumstances are entirely different.

Examiner Burchmore: What is the difference in circumstances?

Mr. Clark: The fact that their road is not incorporated as a common carrier, performs no service for outside parties, and the haul is short. It is not incorporated, it can operate so much more cheaply than the Jefferson & Northwestern can afford to operate the same service for the Clark & Boyce Lumber Company.

Examiner Burchmore: Would it be to their advantage if it was incorporated to get divisions?

Mr. Clark: Well, we have not considered it. I doubt very much if it will. It will never haul logs very far, and I hardly think that it will perform much service for outsiders.

Examiner Burchmore: You have got about as much of a railroad up there for your movement as some of these other railroads you have heard about the last few days, five miles long?

6090 Mr. Clark: Well, I have heard of some that were rather short. I have not heard of any that were quite as short as five miles since I have been here.

Examiner Burchmore: Are there mills in that vicinity, in the vicinity of this other property, which have incorporated their roads?

Mr. Clark: No, sir. There is one other statement I would like to make.

Examiner Burchmore: Certainly.

Mr. Clark: That is in connection with the—it seems that discrimination has been claimed on account of so-called tap lines on the Santa Fe that do not get their divisions. We also have a mill in Oklahoma——

Examiner Burchmore: On the Santa Fe?

Mr. Clark: No, on the Frisco, where we get no divisions, but under the Oklahoma Corporation Commission, the rates from that mill——

Examiner Burchmore: Is that an incorporated railroad?

Mr. Clark: No, sir. Up until last June there were through rates between all railroads in Oklahoma which enabled us from our mill on the Frisco to ship to points on the Santa Fe. We always
6091 found that we could get from 50 cents to $1.00 a thousand more for our lumber on the Santa Fe than we could in other places in Oklahoma.

Examiner Burchmore: I suppose you mean to refer to the fact that the Santa Fe Local markets are closed to outside mills?

Mr. Clark: Absolutely, yes, but that arrangement enabled us to get there when nobody else could.

Examiner Burchmore: Are there any other saw mills in Oklahoma?

Mr. Clark: About four of them.

Examiner Burchmore: You have got one of them?

Mr. Clark: Yes.

Examiner Burchmore: And they all do a fine business in Oklahoma, don't they?

Mr. Clark: Well, not exactly, no. Under the present conditions they are at a great disadvantage.

Examiner Burchmore: In what way?

Mr. Clark: On account of the fact that these commission rates have been enjoined by the railroads, and we have no joint rates at all.

Examiner Burchmore: No joint rates?

6092 Mr. Clark: In Oklahoma.

Examiner Burchmore: Between trunk lines?

Mr. Clark: Between trunk lines.

Examiner Burchmore: Does that extend the rate from the mill down in Texas and Louisiana?

Mr. Clark: Yes, we cannot get farther than about five miles off of the Frisco railroad on any other except a few of the smaller lines.

Examiner Burchmore: I presume if you want to make a sale of lumber in southern Oklahoma on the Rock Island system, you can ship cheaper from your Texas mill than you can from Oklahoma?

Mr. Clark: Yes, sir.

Examiner Burchmore: What is the capacity of your Oklahoma mill?

Mr. Clark: It is 60,000.
Examiner Burchmore: Where is that located?
Mr. Clark: Bokhoma.
Examiner Burchmore: Is there anything further, Mr. Clark?
Mr Clark: I don't think of anything except these statements which I will file for the other shippers on the Jefferson & Northwestern. I will make it as complete as I can. I will say
6093 that the country along the road is developing and they are encouraging the settlement by farmers. The lumber company owns about 30,000 or 20,000 acres of cut-over land which it is trying to colonize and to some extent is succeeding, for the farming country is good and the production of farm products is increasing, and this railroad is a large factor in the development of that country.

6094 *Natchez, Ball & Shreveport Railway Company.*

F. R. PIERCE was called as a witness and having been duly sworn, testified as follows:

Direct examination:

Mr. Brown: Mr. Pierce, you are auditor of the Natchez, Ball & Shreveport Railway Company?
Mr. Pierce: I am.
Mr. Brown: What is the length of that line of road, Mr. Pierce?
Mr. Pierce: Thirty-four miles of main line.
Mr. Brown: What is your main line connection?
Mr. Pierce: The main line of the Rock Island, the L. & A. Railway and the Iron Mountain.
Mr. Brown: What point does it connect with the Iron Mountain?
Mr. Pierce: At Ball and at Pollock, Louisiana.
Mr. Brown: Do you cross the other lines that you mentioned?
Mr. Pierce: We do, the L. & A. and the Rock Island using the same tracks, the same rails.
Mr. Brown: Does the Rock Island come down over the L. & A. rails, or the L. & A. over the Rock Island rails, which
6095 way is it?
Mr. Pierce: The Rock Island over the L. & A. rails, I think the track belongs to the L. & A.
Mr. Brown: And you have a junction with them at that point of crossing?
Mr. Pierce: Yes, sir.
Mr. Brown: This is a standard gauge road?
Mr. Pierce: It is.
Mr. Brown: What sort of a line is it as to construction? Weight of rail, ballast and so forth?
Mr. Pierce: Fourteen miles of the track is 35 pound rails, 3,000 ties to the mile. The other, the balance of the road, is 56 pound steel, 3,000 ties to the mile, and all dirt road.
Mr. Brown: What equipment have you?
Mr. Pierce: Four locomotives, 65 to 70 flat cars, two cabooses.
Mr. Brown: Are these standard flat cars or logging cars?

Mr. Pierce: Standard flat cars.

Mr. Brown: And are the locomotives and cars equipped under the safety appliance act?

Mr. Pierce: They are.

Mr. Brown: I forgot to ask you, this point of junction
6096 near Pollock with the Iron Mountain, that is in Arkansas, isn't it?

Mr. Pierce: That is in Louisiana.

Mr. Brown: And your road is incorporated under the laws of Louisiana?

Mr. Pierce: It is.

Mr. Brown: Do you have any lumber mills on the line of this road?

Mr. Pierce: There are mills on the line of the road.

Mr. Brown: What is the principal mills?

Mr. Pierce: The principal mills are owned by J. F. Ball and Brother Lumber Company. They are located at Pollock and at Ball.

Mr. Brown: At the two points?

Mr. Pierce: At the two points.

Mr. Brown: Can you give a list of the stockholders of the railroad company, and also a list of the stockholders of this lumber company that you speak of?

Mr. Pierce: I cannot give you a list of the stockholders of the lumber company. I can give you a list of the stockholders of the railroad company.

Mr. Brown: You can read it right into the record, if it
6097 is brief.

Mr. Pierce: The stockholders of the railroad company are J. F. Ball, R. L. Ball.

Examiner Burchmore: Can you give the number of shares as you read them?

Mr. Pierce: I can. Do you wish it, Mr. Examiner?

Examiner Burchmore: Yes.

Mr. Pierce: J. F. Ball, 825; R. L. Ball, 35; J. W. Ball, 600; F. R. Pierce, 10; C. E. Hard, 10; R. P. Hunter, 10; J. B. Roberts, 10.

Mr. Brown: Who are the officers of the road, who is the president?

Mr. Pierce: J. F. Ball is president, R. L. Ball is vice-president; J. W. Ball is secretary and treasurer, F. R. Pierce is traffic manager and auditor.

Mr. Brown: Do you handle any products over that road—any traffic, I should say, over this road, except timber and timber products?

Mr. Pierce: We do.

Mr. Brown: About what per cent of the total traffic do you think constitutes this other business?

Mr. Pierce: It is small, probably not to exceed 5 per
6098 cent of the traffic is other than forest products. The territory traversed when we started the line was an unbroken forest and it has not been cleared to any considerable extent as yet.

Mr. Brown: Well, is there any development of this outside business, that is, agricultural products and things of that kind?

Mr. Pierce: There is. Our traffic on that kind of business is increasing more or less.

Mr. Brown: Is your road a party to joint through tariffs with the Iron Mountain and L. & A. road?

Mr. Pierce: We have no joint through tariffs with the L. & A.; we have with the Iron Mountain.

Mr. Brown: Do these joint through tariffs include lumber, timber products, also any class commodity joint rates?

Mr. Pierce: We have no class commodity joint rates. We have only through interstate rates on forest products.

Mr. Brown: Are you a party to the tariff authorizing milling in transit privileges on your line or in connection with the Iron Mountain?

Mr. Pierce: We are.

Mr. Brown: From any mill on your line?

Mr. Pierce: We are.

6099 Mr. Brown: At the end of the main line of the road does your railroad company operate any timber spurs?

Mr. Pierce: We do.

Mr. Brown: Explain to the Examiner how that is handled?

Mr. Pierce: We operate spurs for getting out logs. We own two log loaders, which we load logs with and bring them up to the main line.

Examiner Gutheim: Do you mean the railroad owns the log loaders?

Mr. Pierce: The railroad owns the log loaders.

Mr. Brown: Do you make any charge for that service?

Mr. Pierce: We do.

Mr. Brown: You make a separate and distinct charge from the division of the rates?

Mr. Pierce: We do.

Mr. Brown: What is your charge?

Mr. Pierce: $1.50 per thousand feet, predicated on log scale.

Mr. Brown: What are your divisions with the Iron Mountain under the tariff of joint rates?

Mr. Pierce: Any quantity?

Mr. Brown: Yes.

6100 Mr. Pierce: They vary from 1½ to 5 cents per 100.

Mr. Brown: What would you say about your average divisions?

Mr. Pierce: Well, a trifle over 3 cents, 3.2.

Mr. Brown: To what points does the 5 cent division apply?

Mr. Pierce: The 5 cents division applies to trans-Missouri territory on rails of the Missouri Pacific system.

Mr. Brown: Does it extend to Colorado common points?

Mr. Pierce: It does.

Mr. Brown: What per cent of your lumber tonnage in your opinion is handled by this Ball Lumber Company that is located near you?

Mr. Pierce: Practically nothing handled for them.

Examiner Gutheim: How much is handled for others?

Mr. Pierce: 100 per cent.

Mr. Brown: Have you any explanation to make to the Examiner pertaining to that last statement of yours, when you say practically nothing?

Mr. Pierce: J. F. Ball, or the lumber company, is located on our line, but their shipments are all made to consignees throughout the country, I could not say to whom, their name is legion, they are scattered all over the United States, and the car is handled for the consignee, not for the shipper.

6101 Examiner Gutheim: Very well, but how much of that lumber comes from the mills of the Ball Lumber Company?

Mr. Pierce: Oh, probably 95 per cent.

Mr. Gutheim: Only 95 per cent?

Mr. Pierce: Well, I am not certain as to that, but I would say that it is that amount.

Mr. Gutheim: And the lumber is sold f. o. b. point of origin?

Mr. Pierce: Sold f. o. b. destination as a rule. The reason I am not particularly interested in the sale of the lumber, we know how they sell it, but when we issue a bill of lading for it it goes to the man himself whose name is shown in the bill of lading as the consignee.

6102 Examiner Gutheim: Did you ever hear of a consignor stopping a shipment in transit?

Mr. Pierce: Such an occurrence has never come under my direct observation. I believe it could be done.

Mr. Brown: You understand that that is only in certain particular cases under peculiar conditions?

Mr. Pierce: I understand that.

Examiner Gutheim: Mr. Pierce, you say that the lumber belongs to the individual named in the bill of lading. Do those bills of lading all read straight or are they shipped out a good deal, "Shipper's order; notify"?

Mr. Pierce: We do not have a case of that kind once in six months.

Examiner Gutheim: The bills of lading are all made straight to the consignee?

Mr. Pierce: Yes, we object to that other class of shipments.

Mr. Brown: So in that sense, all of the consignees of these mills on your road are—you regard them as patrons of your road, and shippers over your road?

Mr. Pierce: They are our patrons, our shippers.

Examiner Gutheim: I would like to ask one question on
6103 this point. Do you solicit business from consignees?

Mr. Pierce: From consignees?

Examiner Gutheim: Yes.

Mr. Pierce: We have no traveling freight agents at all.

Examiner Gutheim: Does the consignee control the routing so far as you are concerned? Does he give you the routing instructions?

Mr. Pierce: He may or he may not, but he has the right to control it.

Examiner Gutheim: Do you as manager of the railroad ever receive from a consignee routing instructions on a carload of lumber?

Mr. Pierce: I have.

Examiner Gutheim: Directly from the consignee?

Mr. Pierce: I have.

Examiner Gutheim: Then he was also the consignor?

Mr. Pierce: I would not say so.

Examiner Gutheim: Did you ever receive a carload shipment to be transported to an interstate destination where the consignee was not also the consignor?

Mr. Pierce: Practically every shipment that we have, the consignee is the consignee alone, and his identity is entirely
6104 separate from that of the consignor.

Examiner Gutheim: But the consignee has nothing to do with the original contract of transportation with the railroad, has he?

Mr. Pierce: Surely he has. The original contract of transportation is evidenced by our bill of lading.

Examiner Gutheim: But the road issues the bill of lading?

Mr. Pierce: We issue a bill of lading to the consignor and a duplicate to the consignee if he wants it.

Examiner Gutheim: Do you enter into any contract with the consignee when you issue that bill of lading?

Mr. Pierce: We do.

Examiner Gutheim: What is the contract?

Mr. Pierce: A contract to transport it over our line and deliver it to our connection in good order, in safety.

Mr. Brown: The consignee is the beneficiary under that contract?

Mr. Pierce: He surely is.

Examiner Gutheim: I believe you said that your road is capitalized at $500,000.

Mr. Pierce: Yes, sir.

Examiner Gutheim: $280,000 only of that has been issued.

6105 Mr. Pierce: It has.

Examiner Gutheim: Issued to these stockholders that you have given a list of?

Mr. Pierce: It has.

Examiner Gutheim: Does your railroad company at this time, or has it at any time in the past, held itself out to all persons as a carrier of goods for hire, and accepted all that has been tendered, and provided facilities for the transportation of all freight and goods for hire that has been tendered you?

Mr. Pierce: We have.

Examiner Gutheim: Is that the fixed policy of the company?

Mr. Pierce: It is.

Examiner Gutheim: Do you make your report to the Louisiana Commission?

Mr. Pierce: We are making reports to the Louisiana Commission now.

Examiner Gutheim: Do you enjoy exemption from taxation as provided under the constitution and laws of the state of Louisiana?

Mr. Pierce: We have.

Examiner Gutheim: To railroad companies. Are you rec-
6106 ognized by the Railroad Commission of Louisiana as a common carrier?

Mr. Pierce: We are not at this moment, but we will be within three days.

Examiner Burchmore: Will you explain that answer? I did not quite understand it. Perhaps I did not get the words of that.

Examiner Gutheim: What did you mean by that, Mr. Pierce? Is it that this road was not included in the list which was filed here yesterday by Mr. Barrow, is that correct?

Mr. Pierce: That is correct.

Examiner Gutheim: Now have you any statement with respect to that omission to make to the Examiner?

Mr. Pierce: This statement I can make, I have got to acknowledge my own dereliction in the matter of my lack of promptness in past times as to the requirement of the Louisiana Commission in tardiness on my part in properly furnishing the required information to the Commission.

Examiner Burchmore: What was the nature of your omission?

Mr. Pierce: Failure to make proper reports to the commission.

Examiner Burchmore: You mean failure to make the re-
6107 ports required by the state law?

Mr. Pierce: Yes, sir; failure to see that the bookkeeper made the proper report.

Examiner Burchmore: Then you have never had any official relations to the State Commission of Louisiana?

Mr. Pierce: We never have.

Examiner Burchmore: How do you know that you are going to be recognized in three days?

Mr. Pierce: Because I have submitted the matter to the Commission and they assured me that we were entitled to recognition and would be recognized upon our complying with the rules of the Commission.

Examiner Burchmore: When and in what way did you present that matter?

Mr. Pierce: Informally.

Examiner Burchmore: Did you say when?

Mr. Pierce: I presented it on the 25th of this month.

Examiner Burchmore: All right.

Mr. Brown: Mr. Pierce, have you also made application to have the Commission file—the State Commission file with the Interstate Commerce Commission a supplemental statement showing
6108 your road, if action was taken favorably by the Louisiana Commission?

Mr. Pierce: I have.

Mr. Brown: I think that is all I want to ask.

Examiner Burchmore: Where is your connection with the L. & A., Mr. Pierce? I ask the question because an examiner of the

Commission who went over this property some time ago reported only the Iron Mountain connection.

Mr. Pierce: We cross it at Dry Prong and Bentley.

Examiner Burchmore: Dry Prong and Bentley?

Mr. Pierce: Yes, sir.

Examiner Burchmore: And you connect with both the L. & A. and the Rock Island at both those points?

Mr. Pierce: I think they use the same rails from Winfield south.

Examiner Burchmore: What I wanted to ascertain was whether the Rock Island operated over the entire rails of the L. & A. between those points; that is I want to know whether the Rock Island was operating over the L. & A. at Dry Prong and at Bentley also?

Mr. Pierce: They do.

Examiner Burchmore: Do you own all of the equipment that you enumerated?

6109 Mr. Pierce: We do not.

Examiner Burchmore: How much is leased?

Mr. Pierce: Twenty-seven cars.

Examiner Burchmore: Those are flat cars?

Mr. Pierce: Flat cars.

Examiner Burchmore: Who owns those cars and what is the consideration paid as rental?

Mr. Pierce: The St. Louis, Iron Mountain & Southern owns the cars. The consideration paid for rental is 30 cents per day.

Examiner Burchmore: Was that rate raised from 25 cents per day at the time that the general increase was made in per diem rate?

Mr. Pierce: I do not know the time.

Examiner Burchmore: Now, do I understand that the Ball Company had two mills on the line?

Mr. Pierce: Yes, sir.

Examiner Burchmore: Where are they located?

Mr. Pierce: At Ball and at Pollock.

Examiner Burchmore: Now, the stockholders whose names you gave us, have no relation as stockholders to the J. F. Ball & Brother Lumber Company?

6110 Mr. Pierce: I cannot testify to that from my own knowledge. I do not think there is any question but what several of them have, the principal ones.

Examiner Burchmore: Is it your general understanding that the three members of the Ball family who hold something more of the railroad stock than ten shares each, ten shares being the holding of four other individuals—is it your understanding that those three members of the Ball family own or control the policies of the J. F. Ball & Brother Lumber Company?

Mr. Pierce: Yes, that is my understanding.

Examiner Burchmore: You own ten shares of stock in this railroad. Have you a certificate evidencing that fact?

Mr. Pierce: There is a certificate issued evidencing that fact, but I haven't it in my possession.

Examiner Burchmore: As a matter of fact, you endorsed it in blank, didn't you?

Mr. Pierce: I did not.

Examiner Burchmore: Did you pay for that stock?

Mr. Pierce: No, sir, I did not.

Examiner Burchmore: Who did pay for it?

Mr. Pierce: It was not paid for in cash. It was issued to me for services.

6111 Examiner Burchmore: What was the nature of the services?

Mr. Pierce: The nature of the services was my services as auditor and traffic manager of the road.

Examiner Burchmore: Do you receive a salary from this road?

Mr. Pierce: I do.

Examiner Burchmore: Have you any objection to stating the salary?

Mr. Pierce: My salary is predicated on my services to five roads, it is divided among them, so that this road only bears its proportion.

Examiner Burchmore: You had been receiving a salary from these five roads or some of them, previous to the time you acquired stock in this company?

Mr. Pierce: I had not.

Examiner Burchmore: When did you acquire stock in this company?

Mr. Pierce: In 1903, I believe, I am not quite certain as to the date.

Examiner Burchmore: At the same time you became its traffic manager?

Mr. Pierce: At the same time I became its traffic man-

6112 ager, or soon afterwards.

Examiner Burchmore: Did your full salary commence at the same time you began your duties?

Mr. Pierce: I do not recall that, some time ago.

Examiner Burchmore: You did not receive this stock in lieu of salary?

Mr. Pierce: I do not recall that.

Examiner Burchmore: As a matter of fact, wasn't this certificate presented to you in consideration, as you remember it, of the fact that you were about to become traffic manager and were therefore available as a director?

Mr. Pierce: No, I think not. It was given me, at least, under my impression, because I had rendered value received for it.

Examiner Burchmore: If you cease your service with this company, if that occurs, do you think you will continue to own the stock?

Mr. Pierce: If I can dispose of it to advantage I will not.

Examiner Burchmore: To what advantage do you think you could dispose of it?

Mr. Pierce: The stock is not quoted at this time, Mr. Ex-

6113 aminer.

Examiner Burchmore: Do you think you could sell it?

Mr. Pierce: I think I could.

Examiner Burchmore: You are a director in the company?

Mr. Pierce: I am.

Examiner Burchmore: And the other three gentlemen who own shares are also directors?

Mr. Pierce: They are.

Examiner Gutheim: Do you know, Mr. Pierce, whether Mr. Herd, Mr. Hunter or Mr. Roberts, have any official relation with the J. F. Ball & Brother Lumber Company, of if they are employés of that company?

Mr. Pierce: I do not know. Mr. Herd is the book-keeper of the railway company. What the employment of Mr. Hunter and Mr. Roberts is I am not prepared to say.

Examiner Gutheim: Do you know where the residence of those gentlemen is that you have mentioned?

Mr. Pierce: Mr. Herd's residence is at Pollock. Where the two other gentlemen reside I do not know.

Examiner Gutheim: Now, in addition to the $280,000 capital stock outstanding does this railroad company have any considerable debt?

6114 Mr. Pierce: It has a debt of approximately $100,000 in open accounts, due to the J. F. Ball & Brother Lumber Company.

Examiner Gutheim: Is any interest paid on that debt.

Mr. Pierce: There has not been so far as I know. That is a detail of book-keeping, I would not be in a position to testify as to that.

Examiner Burchmore: Didn't you testify at New Orleans?

Mr. Pierce: I did.

Examiner Burchmore: For what companies?

Mr. Pierce: For the Enterprise Railroad Company, the Saline Bayou Railroad Company and the Griffin, Magnolia & Western Railroad Company.

Examiner Gutheim: Now, is that $100,000 of debt a debt which has arisen in the operation of the road from time to time, or is it a debt applicable to the construction cost of the road?

Mr. Pierce: I do not know.

Examiner Gutheim: Well, as a matter of fact——

Mr. Pierce: The information comes to me from the president that that debt exists and how it was accumulated I could not testify.

6115 Examiner Gutheim: Is your connection with the railroad as auditor, Mr. Pierce, an active or nominal connection in that capacity?

Mr. Pierce: It is active to a certain extent, but I do not keep the books.

Examiner Gutheim: Are the books, as a matter of fact, in Pollock or in St. Louis?

Mr. Pierce: They are in Pollock.

Examiner Gutheim: I asked you because our examiner who went down to Pollock and asked for the books, was told that he would have to go to St. Louis, and when he got to St. Louis he was told that he would have to go to Pollock.

Mr. Pierce: I think there is some mistake, Mr. Gutheim, to this extent, that any examiner who came to me with regard to this road, in St. Louis, and I would be the one to whom he would apply in St. Louis, would have received all the information that I could possibly get. There might have been some details in which I would have to ask him to see our bookkeeper at Pollock.

Examiner Burchmore: Just what books do you keep here?

Mr. Pierce: I keep the Interline accounts of the road.

Examiner Gutheim: That is what I understood from the report, Mr. Pierce.

6116 Mr. Pierce: Yes.

Examiner Gutheim: The examiner in St. Louis, as you say, was no doubt properly informed that the books were at Pollock, but the examiner at Pollock could not gain access to the books, he was told there that they were in St. Louis.

Mr. Pierce: The office there has been in a chaotic condition owing to some unfortunate tragedies that occurred at this place, and it has been quite difficult to get the books kept properly or to my satisfaction.

Mr. Brown: There is no disposition to conceal any of the affairs of this railroad company or its books or anything of that kind?

Mr. Pierce: Not the slightest whatever.

Mr. Brown: They are open for inspection to any examiner of the commission, of course?

Examiner Gutheim: I thought it might be well understood where we would have to go hereafter.

Mr. Pierce: Two men have been killed down there, and those books are not kept in the manner that we would like to have them kept, but we think they will be hereafter.

Examiner Burchmore: They are kept in Pollock?

Mr. Pierce: Kept in Pollock.

6117 Examiner Burchmore: Is there a provision of the statutes of Louisiana requiring a company organized in that state to maintain general offices in that state?

Mr. Pierce: I am not prepared to say, I never heard of it.

Examiner Gutheim: Now, can you say, Mr. Pierce, about what the footage of logs is that you take out of the woods, by this railroad in a year, say in the past fiscal year of the railroad?

Mr. Pierce: Our log tonnage in feet?

Examiner Gutheim: Footage, yes.

Mr. Pierce: Approximately thirty-five millions of feet.

Examiner Gutheim: Do you know how much was taken out in the year ending June 30, 1909, whether you operated to about that extent also?

Mr. Pierce: In 1909 my recollection is that our tonnage was light, business was very quiet on the road.

Examiner Gutheim: What relation would the actual footage actually handled have to the figure 35,000,000 feet in that year?

Mr. Pierce: I do not recall.

Examiner Gutheim: Well, was it 20,000,000 feet, would

6118 you say?

Mr. Pierce: I prefer not to hazard a rough statement.

Examiner Gutheim: You pay 1.50 per thousand for this spur work that is done by the railroad company?

Mr. Pierce: We collect $1.50 per 1,000 from them.

Examiner Gutheim: The lumber company pays the railroad company $1.50 per thousand for spur work?

Mr. Pierce: That is our charge.

Examiner Gutheim: That $1.50 is the charge on all of the logs that are handled into the mill?

Mr. Pierce: It is.

Examiner Gutheim: Do you know what proportion of your revenue is revenue derived from divisions out of the junction point rate?

Mr. Pierce: I do not.

Examiner Gutheim: Would you say that your divisions were as high as one-half of your total revenues?

Mr. Pierce: They should be.

Examiner Gutheim: Does the amount which the railroad charges up against the lumber company for this spur work go into your freight revenue account?

Mr. Pierce: I have forgotten how the commission has that
6119 kept. My recollection however is that there is a requirement for revenue from other sources than the movement of freight into which it goes.

Examiner Gutheim: But that would go into your gross revenues at the end?

Mr. Pierce: No, on the gross revenue——

Examiner Gutheim: The reason I ask is that your total revenue in the year that I have examined, seems to be $18,800. Assuming that half of it was divisions would leave about $9,400 that would have arisen on collections from the lumber company or charged against the lumber company for spur work. That would not account for anything like 35,000,000 feet, and the question in my mind is whether you are actually charging the lumber company $1.50 per 1000 on all of the footage that is handled.

Mr. Pierce: You may rest assured that we are.

Examiner Gutheim: Where does the credit go if it does not go into the gross revenue ultimately?

Mr. Pierce: Well, it goes into the gross revenue ultimately. There are errors in that set of books, in that set of accounts.

Examiner Gutheim: Is the revenue that comes to the rail-
6120 road from divisions credited to the revenue account or is it credited to the lumber company's account?

Mr. Pierce: Credited to neither, it is credited to freight earnings.

Examiner Gutheim: That is what I mean by the railroad company's account. You said that the railroad company own log loaders, and that this $1.50 per 1000 is supposed to compensate them for the work on the spurs, and also I suppose for the expense of carrying the investment in log loaders?

Mr. Pierce: It is compensation for the service rendered them, whether it compensates them or not.

Examiner Gutheim: Now, has the railroad operation been profitable to them, Mr. Pierce?

Mr. Pierce: My understanding is that it has not been profitable.

Mr. Brown: You have not received any dividends on your stock?

Mr. Pierce: I have received no dividends.

Examiner Gutheim: The operations for the year seem to indicate a net revenue of about $6,000. If no dividends are paid, those revenues operate to reduce the indebtedness due by this company.

6121 It shows that with an average division of three cents an approximate net revenue of about $6,000, and the whole making about $19,000, if your divisions were reduced to two cents, it would practically wipe out the profits of this company. Now, if it were further reduced, say to one cent, it would leave you with a net deficit, basing the question on this year's business, a deficit of about $6,000.

Mr. Pierce: I would not finance that deficit if it did occur. Probably the receiver would, put it up to him and see what he can do with it.

Examiner Gutheim: As a matter of fact, with the Ball Lumber Company still in business down there, wouldn't they come to the rescue and finance the deficit as a matter of fact?

Mr. Pierce: Well, I am a railroad man, not a prophet. I cannot tell what would happen under those conditions.

Examiner Gutheim: Suppose a receiver comes in, he would try and make this road pay, and he would raise the rates to it.

Mr. Pierce: He would try to, if the Commission did not stop him.

Examiner Gutheim: If he operated the business he would probably have to raise this rate of 1.50 per thousand for the log-

6122 ging expense. I take it that he would first take steps to try to raise the revenue over it.

Mr. Pierce: He might succeed in raising that rate without raising his finances. A higher rate does not always mean an increased revenue by any means. It might stop.

Examiner Gutheim: The tonnage would stop some.

Mr. Pierce: The tonnage would drop some, or it might drop out altogether.

Examiner Gutheim: Assuming that in order to make up the deficit that is occasioned by the reduction in divisions, the logging spur rate of $1.50 was increased, would not that be reflected in your cost of logging to the lumber company, or wouldn't the logging company find that its expense of the logs, its cost of the logs in that pond was greater than now?

Mr. Brown: Assuming that they moved the same amount of logs.

Mr. Pierce: Now you ask me to testify as to what would happen in there if this company——

Mr. Gutheim: I am assuming that the railroad found its average division reduced, and that as a result of that reduction in division, it finds itself facing a deficit, and it increases its only local rate,

6123 that is, the rate on log spur work. I ask if that would not compel the lumber company to pay more for the hauling of the lumber to the pond and increase the cost of the log in the pond above what it is now.

Mr. Pierce: Under all the conditions that you name, and the mill

doing business under this increased cost, of course it would increase the cost to the mill.

Examiner Gutheim: Which would ultimately result in the increased cost of the lumber?

Mr. Pierce: Increased cost of the lumber.

Examiner Gutheim: Has the extent of the service performed for parties other than the Ball Lumber Company, or for products other than the products of the Ball Lumber Company increased during the last year or two?

Mr. Pierce: It has.

Examiner Gutheim: Has it increased to any great extent?

Mr. Pierce: My recollection is that it has increased 100 per cent the last year.

Examiner Gutheim: Are there any communities located along the line of the road from the mills, out to the present logging camps?

Mr. Pierce: There are two or three small communities.

6124 Examiner Gutheim: Are they communities that were there prior to the advent of the road?

Mr. Pierce: No.

Examiner Gutheim: Have they been built up as the result of the original establishment of a logging camp where they now are?

Mr. Pierce: Well, they have been built—they have been started in that way and have grown to some extent by the opening up of the little agricultural resources of that country.

Examiner Gutheim: Are there any post offices, or are they merely collections of farms?

Mr. Pierce: There are post offices in three or four, I think.

Examiner Gutheim: Are they on the line or off the railroad?

Mr. Pierce: There are post offices at Dry Prong and there is a post office at——

Examiner Gutheim: Dry Prong is the junction point with the L. & A.?

Mr. Pierce: Yes.

Examiner Gutheim: I mean away from the junction.

6125 Mr. Pierce: There are a couple of post offices.

Examiner Gutheim: You do not handle any United States mail or express?

Mr. Pierce: We do not.

Mr. Brown: Mr. Pierce, your company issues its own bills of lading and way bills on shipments?

Mr. Pierce: We do.

Mr. Brown: They are the regular uniform bill of lading?

Mr. Pierce: They are.

Mr. Brown: Regular railroad form of way bill?

Mr. Pierce: Standard form of way bill, way bills on different roads vary.

Mr. Brown: Standard railroad form?

Mr. Pierce: Yes.

Mr. Brown: Do you make your reports to the Interstate Commerce Commission?

Mr. Pierce. We do.

Examiner Gutheim: Do you know if the Ball Company owns its timber in fee, or whether they operate under timber rights?

Mr. Pierce: I am not prepared to say. My impression is that they own it in fee.

6126 Examiner Gutheim: So that they are not obligated to cut every year in order to keep the interest charges from accumulating?

Mr. Pierce: I know of no arrangement to compel them to do that.

Examiner Burchmore: When this road was called at New Orleans you were present?

Mr. Pierce: Yes, sir, I was.

Examiner Burchmore: And you asked that the case go over, as I understood you?

Mr. Pierce: Yes, Mr. Examiner, you probably recall that we offered to go——

Examiner Burchmore: I was not there.

Mr. Pierce: We offered to go on with the examination of the road although the president was absent, and the papers had not come, and the Commissioner said that he would endeavor to get at the data with regard to this road in some other way.

At that time we did not understand that we were to go on at all. That is my recollection, Mr. Brown, that he told you he would find some other method of satisfying himself as to the condition of the road.

6127 Examiner Burchmore: Has there any change taken place in the stock ownership of the road recently?

Mr. Pierce: I do not know.

Examiner Burchmore: Not so far as you know?

Mr. Pierce: I do not know at all, not so far as I know.

Examiner Burchmore: Well, the books are in your care?

Mr. Pierce: The stock books?

Examiner Burchmore: Yes.

Mr. Pierce: Yes.

Examiner Burchmore: Has there been any change recently in the methods and practices of this railroad with respect to conducting transportation?

Mr. Pierce: I do not know of any.

Examiner Burchmore: You would know if it had changed any of its practices very materially.

Mr. Pierce: I would know if it changed its rates.

Examiner Burchmore: What is your position?

Mr. Pierce: Traffic officer.

Examiner Burchmore: You are traffic officer for certain other lines of railroad?

Mr. Pierce: Yes, sir.

Examiner Burchmore: Do any of those roads get any more

6128 liberal divisions that this road gets?

Mr. Pierce: Yes, some of them get more liberal divisions on some business than this line gets, they are not uniform.

Examiner Burchmore: Is there any road whose average division is higher than this road, any road that you represent?

Mr. Pierce: I never have compared them as to that. I would think not.

Examiner Gutheim: There is one question more, Mr. Pierce. Are the divisions of the through rates that you receive, the same by all its connections?

Mr. Pierce: We have no divisions with any line except the Iron Mountain. We have no through rate in—I testified that we had no through rates in with the L. & A.

Examiner Gutheim: Nor with the Rock Island?

Mr. Pierce: Or with the Rock Island.

Examiner Burchmore: Will you furnish us with a map of the whole line?

Mr. Pierce: If you desire. Those other tracks there are all ours. (Indicating on the sketch.)

Examiner Burchmore: Is that another line there?

Mr. Pierce: No, but I say, from this track over here. (In-
6129 dicating.) The Iron Mountain don't own any siding there at all.

Examiner Burchmore: Owns no siding at all?

Mr. Pierce: No, sir; no siding at all. There is one side track.

Examiner Burchmore: Which connects at both ends with the Iron Mountain?

Mr. Pierce: That is over here. (Indicating.) That transfer track there is ours, I am quite sure. (Indicating.)

Examiner Burchmore: The transfer track?

Mr. Pierce: That is it here. (Indicating.)

Examiner Burchmore: Here is another sketch which is marked Exhibit No. 2. What is the distance from your mills to the junction point?

Mr. Pierce: We haven't any mills.

Examiner Burchmore: I mean the mills that belong to the Ball Lumber Company.

Mr. Pierce: The Ball Lumber Company——

Examiner Burchmore: Or to the junction with the Iron Mountain Railroad? Does your railroad haul lumber from each of those two mills to this dock? (Indicating.)

Mr. Pierce: That spur is 711 feet, and this spur on the
6130 other plant is 842 feet.

Mr. Brown: We will offer those two sketches in evidence.

(The sketches so offered and identified, were received in evidence and thereupon marked respectively "Pierce Exhibits Nos. 1 and 2, received in evidence January 27, 1911," and are attached hereto.)

Examiner Burchmore: Has the J. F. Ball Lumber Company any locomotives of its own?

Mr. Pierce: Four—the J. F. Ball Lumber Company?

Examiner Burchmore: Yes.

Mr. Pierce: None so far as I know.

Examiner Burchmore: They do not down in that vicinity?

Mr. Pierce: No.

Examiner Burchmore: Were you asked whether your company has filed with the Interstate Commerce Commission annual reports?

Mr. Pierce: I was.

Examiner Burchmore: What was the answer?

Mr. Pierce: I said they did.

Examiner Burchmore: When did you file your first report?

Mr. Pierce: I do not recall.

Examiner Burchmore: Did you file one for the fiscal year
6131 ending June 30, 1909?

Mr. Pierce: I think we did. I am not positive. The blanks came through my hands, I know, and were sent to the Pollock office to be filed.

Mr. Brown: There was one filed for the year ending June 30, 1910, wasn't there?

Mr. Pierce: That was my impression.

Examiner Burchmore: Mr. Pierce, do you remember whether Henry Swacker of the Interstate Commerce Commission called on you at St. Louis in May, 1910, with respect to the operation of this road?

Mr. Pierce: I remember his calling on me with respect to the operation of all the roads with which I am connected and I presume it was at that time.

Examiner Burchmore: Do you remember whether he asked you the question whether the annual report of your road had been already filed with the Interstate Commerce Commission?

Mr. Pierce: I do not recall his asking that question, no.

Examiner Burchmore: He reported to the Commission that no annual reports had been filed, a fact which, if correct, the Commission must have been advised of, but that we would receive
6132 such reports, and said that—and quoted you as saying that you were writing your books, which were in poor condition, as you have explained, and would render an annual report in a few days. Of course it is idle to ask the question——

Mr. Brown: That report was filed

Examiner Burchmore: Now, the report rendered December 13, 1909 by another examiner of the Commission, the general office employés in Washington have erased the examiner's statement that annual reports had been filed by the Natchez, Belt & Shreveport Railway, and have written over that answer an indication that no annual report had been filed for that road, and that forms were being sent to them to render one.

Mr. Pierce: Well, the forms were properly sent to them and I have had no complaint from the Commission that they had not been filed. Is there any notation in the record as to monthly revenues and expense accounts?

Examiner Burchmore: There is now; there is a statement that you had filed accident reports.

Mr. Pierce: Hasn't the company filed a monthly revenue and expense account?

Examiner Burchmore: Very possibly, but it is not endorsed on this report, whether they are or not.

6133 Mr. Pierce: The blanks are going to them promptly and I have had no complaint.

Examiner Burchmore: My record is simply "silent" on it, that is all. Have you any figures with respect to the divisions as to the total, that is, what the aggregate of it is, with you here?

Mr. Pierce: I have no figures with me now. Our last annual report was put in the mail last Monday to come up here when we knew that the road was going on, and has not reached us for some reason.

Examiner Burchmore: Can you prepare and file with the Commission a statement showing the total amount of logs handled by your company during the last fiscal year for the J. F. Ball Lumber Company, or which went to different mills or mill ponds, the total amount of logs that were handled by your railroad company for that company, or which came out of its mills, the total amount of other freight of all descriptions, itemized in such manner as you may use, furnished by the Ball Company or consigned to it, or consigned by it to other persons, and separately stating the figures as to tonnage similarly itemized, supplied by other persons in which the Ball Company had no such interest as I have described?

6134 Mr. Pierce: On forest products only? Or all classes?

Examiner Burchmore: All classes of freight.

Mr. Pierce: All classes?

Examiner Burchmore: Yes.

Mr. Brown: I have a memorandum of that.

Examiner Burchmore: If you will show the tonnage as well as the revenue, you can go into such particulars as you choose to. We want that to show.

Mr. Brown: I think I understand what the Commission wants and we will give them that.

Examiner Gutheim: You might make a separate statement of the six months ending December 31st.

Mr. Pierce: Very well.

Mr. Brown: Mr. Pierce, have you any statement that you care to make on the general situation, especially as far as the question of this investigation might bear upon that question of discrimination as between the lumber mill that had the service of a short line railroad and a lumber mill that has no railroad service, if the Examiner would care for such a statement.

Examiner Burchmore: You ask me whether I want it?

Mr. Brown: Yes; do you care about it? For that phase of

6135 the question?

Examiner Burchmore: If you care to give it, we will listen to it.

Mr. Pierce: There has been apparently a suspicion that some place in that lumber territory, among the short line roads, there was something rotten, and that amounted to a discrimination in favor of certain people in the lumber business. My knowledge of the situation prompts me to believe that there is no discrimination in favor of any concern; that all of these short lines are treated alike, and that all shippers on these short lines receive the same treatment under substantially the same conditions. The question has been raised as to

whether or not a mill company located on a trunk line and that had in connection with it a short line road, or that might have a short line road unincorporated, would be at a disadvantage as against a mill company whose stockholders also owned a short line railroad which earned a portion of the through rate, and from my investigation among the mill people I find that the consensus of opinion among them is that there is no discrimination in a situation of that kind, and that the mill on the main line, if it has its timber close enough to the main line to enable it to haul the logs to the
6136 mill without the expense of building a railroad, has an advantage over the mill—over the combined interest of a mill and railroad, a large proportion of whose combined capital is put into the construction of a road.

Further, I have found that some mills put in tram roads to bring in their logs and receive no division, and it has not created a discrimination against them, because in cases of that kind it is invariably true that they put in the character of road that they do not want to incorporate, they do not hold themselves out to do any public service, and they have the further motive of using this tram road as a private institution. If it is even good enough to operate as a common carrier and hold itself out to do public service,—there is a further object in failing to incorporate or refusing to incorporate in the fact that the territory penetrated by it is left subject—the timber in it is left subject to the purchase of the one concern owning the tram road.

Examiner Gutheim: Mr. Pierce, are there any strictly private spur log roads or log spur tracks that connect with either of the systems of railroad that you serve as traffic manager?

Mr. Pierce: No.

6137 Examiner Gutheim: Is it the purpose—is it with the purpose of having a monopoly in the woods in the manner you have just described that induces lumber companies which are closely related to short line railroads sometimes to fail to incorporate their logging spurs as part of the railroad system?

Mr. Pierce: I would dislike to term it by as harsh a phrase as monopoly, Mr. Examiner.

Examiner Gutheim: I thought that was what you have just described, a private logging road that was not incorporated.

Mr. Pierce: I think the refusal to incorporate some of the lines that are really worthy of incorporation is predicated upon the belief that when they become incorporated then the rails are open to the public, and that another man might come into the territory and compete for the timber with the people who had put the line in there, and that for the purpose of avoiding competition and securing to themselves the timber in that territory, they refuse to incorporate, refuse to do public service.

Examiner Gutheim: In what quarter do you think that this suspicion of existing discrimination that you have just referred to, exists?

6138 Mr. Pierce: Do you mean in what minds?

Examiner Gutheim: In what minds.

Mr. Pierce: The general public mind has been educated more or less along the question of so-called tap lines in recent years, and the impression has gone out that these tap line divisions are divisions for rebates, and I am fairly well acquainted with practically all the lines in the southwest, and I sincerely believe in all conscience there is nothing in the nature of a rebate in connection with any of them, with any of their earnings.

Examiner Burchmore: I have heard testimony the last three or four days by more than one witness who appeared on behalf of short line railroads, individual railroads, who also had official relation to lumber companies served by those roads, where they charged that discriminations were existing in the matter of tap line divisions. We just had one man this morning who testified, as I understood his testimony—you may read it hereafter if you get the transcript—that his road had a rate of 14 cents, joint rate to New Orleans, and that the rate from some place else, I think it was Monroe, was 10 cents, and that that placed his mill at a serious disadvantage. He
6139 endeavored to persuade the Iron Mountain to reduce his rate to 10 cents, and they said they could not do that, but they would give him a division of three and a half cents to offset the disadvantage to which his mill was subject, which he said would have had an effect; that is, he said that even with the large division of three and a half cents which he received out of a 14 cent rate, he was then at a disadvantage with other mills at Monroe which paid the ten cent rate.

Mr. Pierce: Wasn't he discriminated against, not on account of division with his line, but in spite of it?

Examiner Burchmore: That is it.

Mr. Pierce: He was discriminated against in spite of the division on his line, and it would seem to me that the traffic official of that line was rather derelict if he allowed 14 cents down there from that point and a 10 cent rate from a point in neighboring territory.

Examiner Burchmore: You will notice that in that case he claimed that he was discriminated against to the amount of four cents, and the discrimination against him as a lumber man to the amount of four cents was reduced and minimized by the division to him as a railroad company of three and a half cents.

Mr. Pierce: He was unable to part his brains in the middle,
6140 I mean to say, where he was a lumber man and where he was a railroad man. He got himself crossed.

Examiner Burchmore: I just mention that as a case that appealed to me.

Mr. Pierce: He was discriminated against, not on account of the division, but in spite of it.

Examiner Burchmore: What do you think of this testimony that we took last night, of Mr. Ruth? It appeared that he was not only the president or chief officer of a short line of railroad, but also that he was very largely interested in a lumber mill on that line. In answer to a question, he stated that he had a pass over the Iron Mountain, and that that pass was good only in the state of Arkansas, and that he used it whenever he traveled in the state of Arkansas.

I think he further said that there were other mills in his vicinity which were located on short lines of railroad, and that the general officers of those other railroads and mill companies were receiving interstate passes over the Iron Mountain Railroad, and that he had endeavored to secure such interstate passes at times, but without results. Whether he testified as to all those facts, I am not sure, but later in a conversation with him, he mentioned some facts
6141 such as have been mentioned before, and complained because certain mill people who were related to the railroads had interstate transportation over railroads and were thus put at an advantage over and above him in his lumber business, he receiving merely a state pass.

Mr. Pierce: If you will allow me, that use of transportation received as a railroad official for the purpose of promoting the interests of his lumber business, would be entirely improper, not only on his part, but on the part of anyone else.

Examiner Burchmore: Does anybody do it?

Mr. Pierce: Not that I know of.

Examiner Burchmore: This man thought that was a serious discrimination against him as a mill man, as though there was a suspicion in his mind that the tap lines were——

Mr. Garwood: Mr. Examiner, isn't that rather a remote and consequential effect, rather than a direct and natural result? For instance, suppose a mill owner is a director in a trunk line corporation, as often happens, who is entitled as a railroad official to transportation. Of course he does not separate his employment when he travels. He naturally, when the occasion arises, would look
6142 after his milling interest, and yet isn't the discrimination in such a case so remote and consequential and indirect that it ought not to have any serious bearing upon the general question of the discrimination?

Examiner Burchmore: Do you think so?

Mr. Garwood: I hardly think so. I think it is too remote and too consequential, it is not sufficiently direct and proximate.

Examiner Gutheim: Mr. Pierce, this $1.50 per 1000 you say is a necessary charge to the lumber company for spur work in order to enable your railroad to come out whole financially I take it.

Mr. Pierce: We charge the $1.50, Mr. Gutheim, for the purpose of covering our expense in connection with the service rendered.

Examiner Burchmore: You have heard considerable of the testimony at New Orleans and here in St. Louis, and you will probably remember cases of roads who received absolutely no revenues save which came from the division of through rates, but which in their railroad operations performed all services necessary on logging cars without charging to the lumber company anything for spur
6143 work or for main line work either. Now, when the Ball Company pays you $1.50 per 1000 for spur work, you would consider that the Ball Company was at a disadvantage of $1.50 per 1000 of logs, compared with the lumber companies served by such a railroad as I have stated?

Mr. Pierce: I would think that the Ball Company would take

what they could. If some other line happened to perform the service for a mill there which would pay nothing, they are at liberty to do — as far as we are concerned, but we are going to charge them what we think is right.

Examiner Gutheim: In other words, you do not think that a railroad should pocket the loss of a lumber company on account of a poor location?

Mr. Pierce: I do not.

Mr. Brown: Mr. Garwood would like to ask a question.

Mr. Garwood: Mr. Pierce, from your general knowledge of the lumber trade can you say whether the sales agents of lumber companies, the stockholders of which also own an interest in tap lines, so-called, ever consider the railroad end of the matter at all in making sales of lumber, that is, the division that the railroad company gets?

Mr. Pierce: Well, I can only speak fully of my own knowledge. In the case of our own line we do not accept any
6144 dictation from any sales agents other than the consignee, and from talking to officials of other roads situated similarly to ours, I find that they pursue the same policy, that there is no account taken by the lumber interests in their lines as to the territory in which the stuff is to move?

Mr. Garwood: In other words, the sales agent meets the market as he finds it, without any regard to the operations of the railroad as such.

Mr. Pierce. No sales agent connected with any lumber company on our lines knows anything about what is the most favorable territory into which our lumber on our lines can go. He knows nothing about our division sheets or how our earnings arise.

Mr. Garwood: That is all.

Examiner Burchmore: Anything further you want to say, Mr. Pierce?

Mr. Pierce: I believe not, thank you.

6145 *Washington & Choctaw Railroad Company.*

J. T. BURLINGAME was called as a witness, and having been duly sworn, testified as follows:

Direct examination:

Mr. Rich: Will you kindly state your name?

Mr. Burlingame: J. T. Burlingame?

Mr. Rich: Mr. Burlingame, where is your railroad located, or rather the railroad of the Washington & Choctaw?

Mr. Burlingame: It starts at Yellow Pine, Alabama, and runs in a northeasterly direction, practically a northerly direction.

Mr. Rich: What is the length, the present length of the line?

Mr. Burlingame: The present mileage that we are operating is 25 miles. We have about three miles completed, that is, the grading has been finished, but the rails and the ties have not been laid, nor the surfacing completed. We have fifteen additional miles under construction.

Mr. Rich: You have then twenty-seven miles in operation and fifteen miles under construction?

Mr. Burlingame: No, sir, we have twenty-five miles in op-
6146 eration.

Mr. Rich: At what time in the near future will this fifteen miles now under construction be completed and ready for operation?

Mr. Burlingame: I presume in about four or five months.

Mr. Rich: How long has that railroad been in operation?

Mr. Burlingame: Since 1904.

Mr. Rich: You commenced the construction of it in 1904?

Mr. Burlingame: We did.

Mr. Rich: What timber holdings are there to be served by this railroad, milling interests, I mean.

Mr. Burlingame: The timber holdings of the E. W. Gates Lumber Company.

Mr. Rich: What was the extent of the timber holdings at that time?

Mr. Burlingame: In 1904 the E. W. Gates Lumber Company had something like 46,000 acres.

Mr. Rich: Have those holdings of the Gates Lumber Company been added to since that time?

Mr. Burlingame: They have not.

Mr. Rich: Now when the construction of this railroad was commenced, did you set out to build a logging road as distin-
6147 guished from a standard railroad?

Mr. Burlingame: We succeeded to the property. There was a logging road connected with it, a narrow gauge at that time. This line was abandoned and a standard gauge road built for the purpose of serving all those uses to which a common carrier is subjected.

Mr. Rich: Well now what in addition to serving the timber holdings there of the milling plants were the inducements that caused you to construct a standard railway?

Mr. Burlingame: The agricultural interests there.

Mr. Rich: Does this railroad as now constructed and operated extend beyond the holdings belonging to the mill interests?

Mr. Burlingame: Only some four or five miles beyond their holdings.

Mr. Rich: And the projected road is entirely outside of the timber holdings?

Mr. Burlingame: Beyond their holdings.

Mr. Rich: How many stations have you on this line, stations and sidings?

Mr. Burlingame: Well, I can name them very shortly, about five.

6148 Mr. Rich: About five?

Mr. Burlingame: About five.

Mr. Rich: Do you mean five stations and five sidings?

Mr. Burlingame: Yes, sir, all of our stations have sidings.

Mr. Rich: How many station buildings have you?

Mr. Burlingame: We have three station buildings.

Mr. Rich: What industries other than that of the Gates Lumber Company are served by this railway?

Mr. Burlingame: We have five other sawmills in which the E. W. Gates Lumber Company is not interested, neither do they furnish any of the stumpage for these mills. We serve, I expect, something like eight or nine gins and perhaps ten or fifteen stores.

Mr. Rich: Have you been making the statistical reports required by the State of Alabama and the acts of Congress to the Interstate Commerce Commission?

Mr. Burlingame: We have.

Mr. Rich: Is your railroad controlled and directed in its operation by the Alabama Railroad Commission?

Mr. Burlingame: It is.

Mr. Rich: Are its properties assessed for taxes as required by the laws of Alabama, governing the assessment of railroad prop-
6149 erties?

Mr. Burlingame: They are.

Mr. Rich: What was the total receipts, the gross receipts of your line last year, about?

Mr. Burlingame: About $59,000.00.

Mr. Rich: What portion or percentage of that was so-called tap line allowances?

Mr. Burlingame: $10,000.00.

Mr. Rich: Less than twenty per cent?

Mr. Burlingame: Yes, sir.

Mr. Rich: What is the fair value of the railroad investment now?

Mr. Burlingame: It cost us $250,000.00 plus.

Mr. Rich: So then your tap line allowances were about four per cent?

Mr Burlingame: About four per cent.

Mr Rich: On that investment last year?

Mr. Burlingame: Yes, sir.

Mr. Rich: Is the traffic upon which you receive no allowances growing or not?

Mr. Burlingame: It is increasing very rapidly.

Mr. Rich: What is the reason for that increase aside from
6150 the extension of your line?

Mr. Burlingame: There has recently been put on the market a tract of perhaps 60,000 acres belonging to the E. W. Gates Lumber Company for the purpose of colonization. There has recently been added to this territory maybe twelve to fifteen hundred people within the past eight months. Last year our receipts from all sources other than the E. W. Gates Lumber Company amounted to about eight per cent of our earnings. This year in the receipt of the same particular commodities, they are about 80 per cent of the entire earnings. It is in this ratio that our earnings are increasing, due to the settling up of these cut-over lands.

Mr. Rich: Did you have any inducements held out to you by the citizens of that section to extend that railway line?

Mr. Burlingame: We have received a petition from different citizens to extend our road off into the territory where we are going.

Mr. Rich: How many trains a day do you operate?

Mr. Burlingame: We operate on schedule one train, about four trains in all.

Mr. Rich: What classes of commodities other than lumber and forest products do you handle?

6151 Mr. Burlingame: All classes of commodities such as merchandise, farming implements, fertilizer, furniture, live stock and various other commodities.

Mr. Rich: Turpentine and naval stores?

Mr. Burlingame: Yes, both of them.

Mr. Rich: Cotton and cotton seed?

Mr. Burlingame: Yes, sir.

Mr. Rich: All other garden products, I suppose, that belong to that section?

Mr. Burlingame: Yes, sir.

Mr. Rich: Do you handle hewn timber and rough logs for export?

Mr. Burlingame: Quite a bit of rough lumber, hewn timber and round logs. By round logs I mean those that are in their natural state, not having been manufactured, but are merely prepared for export shipment by having the bark peeled and the ends painted. We handle quite a number of ship spars.

Mr. Rich: What character of equipment have you?

Mr. Burlingame: We have two engines, about forty logging cars, four flat cars, six box cars, pile drivers and such other equipment as is usual.

Mr. Rich: You are adding to that equipment as the vol-

6152 ume of traffic increases, I suppose?

Mr. Burlingame: As the demands make it necessary.

Mr. Rich: A good deal has been said during this hearing about discriminations as between sawmill operators, one receiving an allowance and the other not receiving an allowance. Have you heard of any complaints coming from the general public?

Mr. Burlingame: No, sir.

Mr. Rich: About this matter?

Mr. Burlingame: I have heard of no complaints coming from the public, nor neither do I believe that they are, from this fact, I do not believe that they are interested in the case.

Mr. Rich: Is it not a fact that the Railroad Commissions of the States of Alabama, Mississippi, and Arkansas, two of them are on record by their president or presiding officers, and the others ready to go on record as opposed to the proposed cancellation of these allowances?

Mr. Burlingame: They are.

Examiner Burchmore: With reference to Arkansas, if I understand the question, you have said that they are already on record on that proposition.

Mr. Rich: Yes, but what I am now seeking to show is that

6153 the public represented by those commissions—the people, in other words, are not concerned about this matter, but so far as there has been any official or authorized expression, it is in opposition to the proposed cancellation, that is the idea.

Examiner Burchmore: Is there any such expression on the part of either the citizens or public officers of the State of Alabama?

Mr. Burlingame: There will be, that is my information.

Mr. Rich: Have you ever known of any sawmill operator who received the allowance, to undersell his competitor who did not receive it, in any lumber market at any time?

Mr. Burlingame: No, I do not know of any such case.

Mr. Rich: Did you ever hear of a sale of lumber at a reduced price being based upon any such idea?

Mr. Burlingame: No, sir.

Mr. Rich: The question was asked today more than once, what service the tap lines perform with reference to interstate shipments. Will you be good enough to give us your views about that if you have any?

Mr. Burlingame: Well, in the first place, the tap line creates traffic, that is one service.

Mr Rich: How does it create it?

6154 Mr. Burlingame: It goes out in the woods and makes it possible for the milling company and the shipper to handle over its line a volume of tonnage that is not handled by the trunk line. For instance, in our own country in handling logs there, we are in what is called a turpentine section, and the weight of the logs is a good deal more than it would be in short leaf or in a territory that has not been turpentined, so we are handling about six pounds for every one pound that the trunk line does handle.

Mr. Rich: Of the manufactured product?

Mr. Burlingame: Yes, sir.

Mr. Rich: Now you are speaking now of conditions organized by the tap line out of which traffic ultimately originates. Isn't that always done at considerable expense?

Mr. Burlingame: Well, most assuredly so. We have a big investment down there that we have put in to handle it.

Mr. Rich: Could you not, as a matter of fact, instead of building a standard railroad, serve the same purpose practically at very much less cost if you built a logging road simply?

Mr. Burlingame: We had a road that was narrow gauge, that was not a standard——

6155 Examiner Gutheim: Let me ask you what do you mean by serving the same purpose?

Mr. Burlingame: I mean to bring the logs in to the mill.

Mr. Rich: Get the logs to the mill. As a matter of fact possibly the tap line allowances, so-called, induce largely the construction of standard short line railroads?

Mr. Burlingame: Absolutely so.

Mr. Rich: And as a general rule those standard short line railroads have left permanent transportation facilities in the territory in which they were constructed?

Mr. Burlingame: They have.

Examiner Gutheim: You mean that every tap line that has been put down has always acted as a means of permanent transportation facilities?

Mr. Burlingame: I mean every common carrier which serves a tap line purpose is still there where there is business to justify it.

Mr. Rich: You understand, Mr. Burlingame, that I am drawing a distinction between a logging road and a standard railroad. One, as I understand it, is a temporary construction.

Mr. Burlingame: I understand that he did not understand you that way.

6156 Mr. Rich: That is right, he does not seem to. As a general rule, the logging railroad as distinguished from the standard railroad, is a temporary structure that goes with the removal of the timber from the lands?

Mr. Burlingame: The logging could be more neatly compared, I should think, with such tracks as might be put in to a gravel pit on a trunk line, today they run over there and tomorrow they are fifteen feet further. It is the same way with a logging road connected with a road that is a tap line.

Mr. Rich: Do you know of any short line railroads in your section in Alabama that originally were tap line railroads, these logging roads serving mills that have grown into systems of railroads?

Mr. Burlingame: Yes, sir, a couple or three years ago there was a road that served a lumber company in the same county that is now a trunk line, and not cited to appear here.

Mr. Rich: You mean the Tombigbee Valley Railway?

Mr. Burlingame: Yes, sir.

Mr. Rich: Is there not another railroad operated in your county too that is now an interstate railroad?

Mr. Burlingame: Yes, sir a road that did serve the Vinegar Bend Lumber Company is such.

6157 Mr. Rich: That is now the Alabama & Mississippi Railway Company?

Mr. Burlingame: Yes, sir.

Mr. Rich: Let me ask you, do you know whether any other lines east of the Mississippi were cited to appear in this hearing other than those lines whose allowances were cancelled out by the railroads who served them?

Mr. Burlingame: There was no endeavor to get a cancellation of our division by our trunk line.

Mr. Rich: Did you receive notice of this proceeding?

Mr. Burlingame: No, we were not served with any notice of it, but the general impression was that all of those who did not come at the New Orleans hearing would be deprived of these divisions.

Mr. Rich: It was understood that a failure to appear would be understood as a waiver really of the allowance. Now, these five lumber mills on your line, they are your competitors in business?

Mr. Burlingame: Oh, certainly.

Mr. Rich: Did you ever hear any complaint from any of them that you were receiving an allowance on certain classes of product?

6158 Mr. Burlingame: None whatever.

Mr. Rich: They have made no complaint?

Examiner Burchmore: We have been fully advised as to the posi-

tion of these five mills in the way of a letter from each as to their attitude towards this railroad company.

Mr. Rich: I think so. Mr. Burlingame, the Gates Lumber Company's large mill on your line, what has it left in the way of timber holdings, I mean with respect to the time it will take to dispose of it?

Mr. Burlingame: They have scarcely anything left now, about 9,000 acres is the entire holding. They originally had 72—perhaps 72,000 acres.

Mr. Rich: I understood your general statement about the development that was now in progress along the line of railroad, the Washington & Choctaw, that as the timber is removed successful effort is being made to dispose of the land, the purpose being to bring it under cultivation?

Mr. Burlingame: The sale of the land has been contracted as fast as we cut the timber off of it.

Mr. Rich: Does the operation and maintenance of this standard railroad in that territory have any effect upon the sale of that property?

6159 Mr. Burlingame: Why, yes, it has a great effect upon it. In the first place it would be absolutely, I think, impossible to dispose of those lands to any reasonable farmer or business man if he was not provided with certain facilities to get out his product.

Mr. Rich: Has it not been the unbroken history of that sort of operation in the lumber region of the South for thirty years, that when the timber was removed, the lands were just barren wastes, without population, without return to anybody?

Mr. Burlingame: Yes, sir.

Mr. Rich: You say in the last six months six hundred families have gone in there?

Mr. Burlingame: Yes, about fifteen hundred people, I should say.

Mr. Rich: To become settlers of that territory?

Mr. Burlingame: Yes, sir.

Mr. Rich: And this railroad company is trying to get every acre of land under fairly intelligent and successful agricultural cultivation?

Mr. Burlingame: Well, an acre of timber in our country would produce about five thousand feet, that is, an acre of timber.

6160 After that timber has been removed I presume that by this idea of fertilizing that they now have, they may be able to produce a bale of cotton to the acre on it.

Mr. Rich: That is being done in that section, isn't it?

Mr. Burlingame: Yes, there are some of them doing it. Last year they put forth there greater efforts than before in trying to raise a corn crop, and some of them succeeded in getting as high as 60 bushels to the acre. That is those farmers along our line over there in the territory that has just been opened up, say within the past eighteen or twenty months. I want to say in connection with that, that it would be more highly profitable to the railroad to get the tonnage that would originate from agricultural conditions than it would be to get the tonnage that originates from the lumber interests, because that only comes once.

Mr. Rich: That is the end and the other recurs each year?
Mr. Burlingame: Yes, sir.
Mr. Rich: That is all for the present.

Cross-examination:

Examiner Gutheim: Mr. Burlingame, is the Washington & Choctaw Railroad incorporated as a common carrier under the laws of the State of Alabama?
Mr. Burlingame: Yes, sir.
Examiner Gutheim: And was incorporated as a railroad
6161 and common carrier?
Mr. Burlingame: It is now, yes, sir.
Examiner Gutheim: How long has it been so incorporated?
Mr. Burlingame: Well, the original charter that we got out was in the name of E. W. Gates Lumber Company, and the subsequent charter was in the name of the Choctaw & Washington Railroad Company.
Examiner Gutheim: What is the date of that subsequent charter?
Mr. Rich: Let me ask this question just there: I think we will facilitate the matter. Mr. Burlingame, when the charter was obtained in 1904, it was obtained, was it not, under the general incorporation law of Alabama?
Mr. Burlingame: Yes, sir.
Mr. Rich: With reference to manufacturing companies?
Mr. Burlingame: Yes, sir.
Mr. Rich: Tell, if you know, whether the general law authorizing the incorporation of such companies authorizes the construction or purchase of railroads to be operated as common carriers and gives them the right to charge compensation for such services as are rendered by common carriers?
Mr. Burlingame: It did.
6162 Mr. Rich: Hasn't that been so for years, you might say, the legislative policy or governmental policy of the State of Alabama, in order to aid in the building of these short line railroads?
Mr. Burlingame: It has.
Mr. Rich: I would like to incorporate into the record at the proper place that section of the Alabama statute.
Examiner Burchmore: You may do so now.
Mr. Rich: Section 1145, Chapter 28, Article V, reads as follows: "Additional Powers.—Such corporation, when duly organized, has, in addition, power to locate, construct and operate to and from its mines, furnaces, mills, factories, quarries or other works, railways, tramways, canals, tunnels, underground passages, or roads, or to acquire by purchase railways, tramways, canals, tunnels, underground passages, or roads, whereby a connection may be made to and with the principal place of its business, its mines, furnaces, mills, factories, quarries, or other works, and any public highway, turnpike, macadamized, plank, or other graded road, or railroad or navigable waters, or to or with its mines, ore-beds, coking or cooling
6163 grounds, or timber lands; or canals or aqueducts to and from its mills or factories, or furnaces, or quarries, or any waters or

watercourses; and such corporation has also power to transport, as a common carrier, persons or property on any railroad, or other road, or on any canal, or aqueduct, constructed or purchased by it, taking reasonable compensation. If necessary in the construction of such canals, aqueducts, railways, tramways, tunnels, underground passages, or roads, the corporation has power to condemn lands, or an interest or easement therein, or thereunder private property, for a way and right of way, in the mode prescribed by law, such way and right of way not exceeding one hundred feet in width throughout the whole length of such canal, aqueduct, railway, tramway, tunnel, underground passage, or road; and without the consent of the owner of the land, the same must not be constructed through the yard, garden, orchard, stable-lot, gin-house, barn, or through the curtilage of a dwelling-house; and such corporation has power to erect, at such place as may be deemed convenient for its uses, depots, or other buildings, or structures, or wharves; and may purchase, hire, or charter vessels or boats for the transportation of its products or property; and may aid in the construction of railroads, or in
6164 the establishment of lines of vessels or boats, running to and from such depots, or other buildings, or structures or wharves; but the owner of any land which may be taken under the provisions of this section, shall have the right to have all his property, of like kind with that transported by the corporation, carried by such corporation over or upon such canal, railway or tramway, upon the payment of a just and reasonable compensation for such carriage."

Examiner Gutheim: It is also your understanding, Mr. Burlingame, that railroads so chartered are subject to the jurisdiction of the Alabama State Railroad Commission in the same way that trunk lines of railroad are subject to their general jurisdiction?

Mr. Burlingame: Yes.

Examiner Gutheim: Have you any other connection with the exception of that with the Mobile & Ohio Yellow Pine?

Mr. Burlingame: Not at this time. Here is a blue print showing the location of our tracks.

Examiner Gutheim: Do you wish to offer that in evidence?

Mr. Burlingame: Yes.

(The blue print so offered and identified, was received in
6165 evidence and thereupon marked "Burlingame Exhibit No. 1, received in evidence January 27, 1911." consisting of one sheet, and is attached hereto.)

Examiner Gutheim: Are all of the tracks shown on this map connected with the line running from Yellow Pine north now built and in operation by the Washington & Choctaw Railroad Company?

Mr. Burlingame: No, sir.

Examiner Gutheim: What tracks are not now in operation?

Mr. Burlingame: There are two spur tracks leading off to the east that have been removed.

Examiner Gutheim: Will you point them out and describe them?

Mr. Burlingame: These two here and four or five down here. (Indicating on Exhibit 1.)

Mr. Rich: Down by Copeland?

Mr. Burlingame: Yes, one by Copeland. I will say that all of those spur tracks that were used for the purpose of logging only have been removed. That answers the question.

Examiner Gutheim: All these tracks that run to the east some distance north of Copeland in a general parallel way and connecting with what is marked "T. V. R. R.," are they still down?

6166 Mr. Burlingame: No, sir; they were taken up.

Mr. Gutheim: The so-called T. V. R. R., is that still down?

Mr. Burlingame: I think so. We have our holdings on there, but I don't know much about the railroad.

Examiner Gutheim: So that the only line that is now ready and in operation is the one that runs in a general northerly direction from Yellow Pine right up through Copeland and Omega——

Mr. Burlingame: Up to Matthews.

Examiner Gutheim: And a little beyond?

Mr. Burlingame: Over to Williams, quite a little distance beyond Williams now; we have a spur track that leads out from Matthews maybe four or five miles. That is just a logging track for the E. W. Gates Lumber Company.

Examiner Gutheim: Can you say when this blue print was made?

Mr. Burlingame: In 1907.

Examiner Gutheim: So that since then has it——

Mr. Burlingame: No, I will take that back,—since 1909.

Examiner Gutheim: So that since 1909 all these stations that it has been necessary to write in on this road in pencil have been located?

6167 Mr. Burlingame: No, sir; they were located long before the map was ever made.

Examiner Gutheim: But they were not shown on the map at the time it was made?

Mr. Burlingame: It was a matter of oversight on the draughtsman who drew the map, was all.

Examiner Gutheim: Going from Yellow Pine north you strike the place called Reynolds?

Mr. Burlingame: That is from Yellow Pine I should judge three miles.

Examiner Gutheim: What is over there?

Mr. Burlingame: There is nothing there but a side track and a place to store fertilizer.

Examiner Gutheim: Was Reynolds at one time a logging camp of the Gates Lumber Company?

Mr. Burlingame: It was not.

Examiner Gutheim: The Gates Lumber Company had considerable timber thereabouts?

Mr. Burlingame: They did not.

Examiner Gutheim: What have you got at the place called Moss?

Mr. Burlingame: There is a side track and an unloading
6168 platform for the purpose of storing grain and feed.

Examiner Gutheim: How much of a population is there at Moss?

Mr. Burlingame: It serves a community in all of perhaps maybe —well, one saw mill, two or three stores, and I presume 100 people.

Examiner Gutheim: There is a wagon road that runs from Moss over to Magnolia on the M. & O.?

Mr. Burlingame: No, sir, there is not now; there used to be in years gone by.

Examiner Gutheim: What is there at Copeland?

Mr. Burlingame: Copeland consists of three stores, one gin and one saw mill. You saw this large territory about Copeland is very productive, and it sustains a community of maybe a thousand people. six hundred at any rate.

Examiner Gutheim: At Omega is there a station built?

Mr. Burlingame: Omega is a new town that is being built at which there is a saw mill, one or two stores, seven or eight houses, and it also supplies quite a population. It is also the shipping point for a good deal of agricultural products that reach our lines. They are hauled for eight and ten and twelve miles to that point on our road.

6169 Examiner Gutheim: Are there any settled communities at the marks on the map north of Omega?

Mr. Burlingame: Yes, it is a settled country, practically a continuous farm all the way to the end of the line, in which there is no timber. Adjacent to the line at Wilting, which is the next place above Omega, we have a small ore mill which is being put in at that place.

Examiner Gutheim: Does your road handle any United States mail?

Mr. Burlingame: It does not.

Examiner Gutheim: What mail service have the communities that you mentioned?

Mr. Burlingame: They have none. They go to Bucatuma, about twelve or fifteen miles.

Examiner Gutheim: Over on the Mobile & Ohio?

Mr. Burlingame: Over on the Mobile & Ohio. If I mistake not there may be rural free delivery there, but I don't know.

Examiner Gutheim: Now, was this road from Yellow Pine north which was put down for twenty miles and now in operation put down at one time?

Mr. Burlingame: I did not catch that.

Examiner Gutheim: Was this road north from Yellow
6170 Pine about twenty-five miles now in operation put down at one time?

Mr. Burlingame: No; it was built as fast as we could build it, though.

Examiner Gutheim: When you said: "As fast as we could build it," did you refer to the railroad company as a railroad company, or the railroad company as a part of the one incorporation with the lumber company?

Mr. Burlingame: No; as a railroad company. Let me get that straight for you. We had a logging road to the mill, that is, the E. W. Gates Lumber Company had.

Examiner Gutheim: That mill was located at Yellow Pine?

Mr. Burlingame: Yellow Pine; they had a logging road. They commenced to build this standard gauge road previous to the time that they took up the logging property, and they built the railroad as fast as they could get it into some additional timber that the E. W. Gates Lumber Company might use until they got to the place where they had more timber. For instance, they built eight miles right here, and then they built twenty-five miles on top of the eight miles right here (indicating), and I suppose they were three months in building the twenty-five miles.

6171 Examiner Gutheim: Is there any timber there located up beyond Omega?

Mr. Burlingame: There is no timber from Matthews in that whole twenty miles.

Examiner Gutheim: Is there any beyond Matthews?

Mr. Burlingame: Except that which is in the hands of other people than the E. W. Gates Lumber Company.

Examiner Gutheim: Is there any beyond Matthews?

Mr. Burlingame: There is none except right at Matthews, which has been cut out.

Examiner Gutheim: You say there are fifteen miles of track under construction. How far has that construction proceeded?

Mr. Burlingame: We are now building one about three miles, between three and four miles beyond Williams.

Examiner Gutheim: These three stations that you spoke of, are they stations which are usually defined as open stations?

Mr. Burlingame: I don't know what you mean.

Examiner Gutheim: Stations with an agent?

Mr. Burlingame: What do you mean by an open station?

Examiner Gutheim: Do they have an agent of the railroad company there?

Mr. Burlingame: We have an agent at Matthews, we have

6172 an agent at Yellow Pine.

Examiner Gutheim: Are those gentlemen connected in any way with the Gates Lumber Company?

Mr. Burlingame: No, they are not.

Examiner Gutheim: How long have they been there?

Mr. Burlingame: Well, we got into Matthews about three or four months ago and they have been there since that time. We have always had an agent at Yellow Pine.

Examiner Gutheim: When the road was up as far as Omega, about fifteen miles was that?

Mr. Burlingame: Yes, it is about seventeen, about eighteen—seventeen.

Examiner Gutheim: Did you have any agent out there in the service of the railroad?

Mr. Burlingame: Oh, yes, we have always had a traveling agent on our train. We have also had an agent at Yellow Pine.

Examiner Gutheim: Isn't the agent at Yellow Pine also the Mobile & Ohio agent?

Mr. Burlingame: He never was the Mobile & Ohio agent.

Examiner Gutheim: The Mobile & Ohio agent does all the way billing for the Washington & Choctaw Railroad?

6173 Mr. Burlingame: No, sir, the Washington & Choctaw do their own way billing. I would like to say just one thing I want to explain, that there was an agent of the Mobile & Ohio who by some means or other conceived the idea that he wanted to be the freight agent of the Washington & Choctaw, and he succeeded in getting his name on the tariff of that company, but he was never their agent. We never paid him any money and he never did any work for the Choctaw & Washington Railroad, and how he got onto the tariff is more than I know, I cannot say.

Examiner Gutheim: Now these other mills along your line, do they have the same rates going out, say to destinations on the Ohio River and beyond as the Yellow Pine mill?

Mr. Burlingame: They enjoy the same rate of freight.

Examiner Gutheim: They pay an arbitrary of a cent above the rate from Yellow Pine?

Mr. Burlingame: No, sir; that junction point rate extends to every shipper of forest products.

Examiner Gutheim: Now, do any of these small mills get their timber in by your road?

Mr. Burlingame: They do not.

Examiner Gutheim: Does the Gates mill still get its timber

6174 by your road?

Mr. Burlingame: It does.

Examiner Gutheim: What is the local logging rate on that timber?

Mr. Burlingame: 3 cents a hundred.

Examiner Gutheim: That is not the 3 cents, the other division that you gave?

Mr. Burlingame: No, sir.

Examiner Gutheim: Then the division is——

Mr. Burlingame: The railroad keeps the division.

Examiner Gutheim: I mean, does the Gates Lumber Company pay 3 cents per 100 on logs in addition to which the railroad company gets 3 cents on lumber as its division?

Mr. Burlingame: The E. W. Gates Lumber Company pays to the Washington & Choctaw Railroad 3 cents per 100 for logs.

Examiner Gutheim: Just where are these 60,000 acres that you have said were open for colonization located, up beyond Matthews?

Mr. Burlingame: South of Matthews. This line east, there is where the 61,000 acres of land were opened, all the way down here (indicating).

Examiner Gutheim: Those six or seven hundred people

6175 that came in there are actually there?

Mr. Burlingame: They are bona fide settlers, they are there now, brought their families.

Examiner Gutheim: Taking up that question about whether or not the lumber company which owns a railroad which gets a division is thereby enabled to undersell a competitor who does not get a division, let us assume for a minute that he does not apply the

3 cents per 100 pounds to the selling price of the lumber, thereby underselling directly, by applying the division to the price that he is going to sell his lumber at, but if he gets the division of 3 cents, that division increases the revenue of his railroad, doesn't it?

Mr. Burlingame: Well, yes, but you understand what we have to do to get that revenue.

Examiner Gutheim: Yes, but he gets a division of 3 cents which goes into his road freight revenue?

Mr. Burlingame: Yes.

Examiner Gutheim: And having that division, he does not have to make as much money on the lumber because his operating expenses——

Mr. Burlingame: If I——

Examiner Gutheim: Just a moment. And in order to
6176 make money on his local rates he has to make the revenue equal the expense?

Mr. Burlingame: I don't see the connection between the lumber company and the railroad company.

Examiner Gutheim: Just answer the question.

Mr. Burlingame: I cannot, because there is no connection between them.

Examiner Gutheim: If this road's operating expenses are $25,000 a year and it gets divisions of $10,000, it must make up the $15,000 on local earnings?

Mr. Burlingame: Yes, sir.

Examiner Gutheim: Well now, if its divisions were cut out in order to come out even it would have to make $25,000 on local earnings, that is right?

Mr. Burlingame: To keep out of the hands of the sheriff, is that what you have reference to?

Examiner Gutheim: Yes.

Mr. Burlingame: If he has got to make $25,000 then——

Examiner Gutheim: He would have to increase rates, would he not, the railroad company would?

Mr. Burlingame: I don't know whether I could answer the question, whether he has to increase his rates or increase
6177 his tonnage or how he would overcome that point. He could increase his tonnage as well, increasing his revenue.

Examiner Gutheim: We will assume the tonnage is about the same, but your revenues have been reduced, and in order to come out whole, you would have to raise your local rates, is that a fact?

Mr. Burlingame: No, there is an assumption there that would not hold good, because if your tonnage remained the same your railroad is not going to be progressive, it is not going to go on.

Examiner Gutheim: If you carry 500,000 tons one year and 500,000 tons next year on the same line of road will there be any great difference in the operating expenses?

Mr. Burlingame: Why, yes, you would pay more for wages in one year that you will in another, as you are not embarrassed by the fact that last year you did not have equipment and this year you have.

Examiner Gutheim: Assume for the moment that the conditions were normal in both years, that you handled about the same tonnage, but in one year you got $10,000 out of divisions and in another year you did not. If you came out whole the first year,
6178 in order to come out whole the second year, would you not have to arrange to figure on $10,000 additional local earnings?

Mr. Burlingame: Well, I suppose it might run that way.

Examiner Gutheim: Assuming that your local log haul rate was increased, wouldn't that increase the cost of the logs in the pond to the lumber company that had to pay that increase that log haul rate?

Mr. Burlingame: You assume that the rate on logs is increased now?

Examiner Gutheim: Would not that result in an increased cost to the lumber company of the logs in its ponds?

Mr. Burlingame: If it increased the rate?

Examiner Gutheim: Yes.

Mr. Burlingame: Most assuredly.

Examiner Gutheim: So that your lumber in the long run would cost more on account of the fact that——

Mr. Burlingame: Lumber hasn't anything to do with the earnings of a railroad.

Examiner Gutheim: You have just said that when you increased the local rate on the loghaul to make up your revenue, that your lumber—your log is going to cost your lumber company
6179 more in the pond. That being the case, isn't the lumber going to cost more?

Mr. Burlingame: Well, I don't know but what that would be the case. I don't say——

Examiner Gutheim: We have got that far. If the lumber costs you more simply because you don't get divisions, you have not got such a big margin of profit if you are selling at the same price on account of this loss of divisions to this railroad?

Mr. Burlingame: I don't understand a question like that.

Examiner Gutheim: We have got to the point where your lumber is costing you more to manufacture on account of the loss of divisions of the railroad company. We have that fact. Mr. Burlingame, wouldn't your margin of profit be less when your price of lumber is the same as you sold in previous years when this road got divisions?

Mr. Burlingame: No, sir; if the railroads can haul that at 3 cents 100 pounds, the railroad would still be there getting this same amount of money.

Examiner Gutheim: You are going back to the point now where the E. W. Gates Lumber Company finds that its logs in the pond cost more than they did the previous year. Therefore its lumber costs more. Now, assuming the case of a lumber manufacturer
6180 who owns a tram road and is operating it, of the same nature as this, without divisions, is he not in the position that the Gates Lumber Company would be when its divisions were cut out asd he finds his margin of profit less?

Mr. Burlingame: How is a lumber company man interested in any of the profits of a railroad company?

Examiner Gutheim: I am saying this, that they are interested to the extent that its log haul was increased when the divisions were reduced, which resulted in an increased cost of lumber.

Mr. Burlingame: That is right.

Examiner Gutheim: Isn't there an increased cost of lumber caused by the lumber operator who was running the road bringing it to the railroad company and getting no division?

Mr. Burlingame: Is there such a thing as a man being a common carrier and getting no division?

Examiner Gutheim: Oh, yes, there are common carriers who are getting no divisions. There are railroads that are not incorporated as common carriers that perform the same service that you have mentioned which the tap lines were operating that are not getting divisions, doing identically the same thing in the lumber business?

6181 Mr. Burlingame: They are not all alike.

Examiner Gutheim: I guess that is all.

Examiner Burchmore: Are you acquainted with the Sumter & Choctaw Railroad?

Mr. Burlingame: I believe I am acquainted with the gentleman who owns it.

Examiner Burchmore: Who is that?

Mr. Burlingame: Mr. Allison, I think.

Mr. Rich: Who did you say owns it?

Mr. Burlingame: Mr. Allison, W. P. Allison.

Examiner Burchmore: That is down in your vicinity?

Mr. Burlingame: Yes, sir.

Examiner Burchmore: What sort of a road is it?

Mr. Burlingame: I don't know what kind of a road it is except it serves loggings interests.

Mr. Rich: Aren't you mistaken about Mr. Allison being the owner of that road?

Mr. Burlingame: No.

Examiner Burchmore: When was this railroad incorporated, I mean the Choctaw—Washington & Choctaw?

Mr. Burlingame: In 1904.

Examiner Burchmore: Incorporated as a standard guage then?

6182 Mr. Burlingame: It was incorporated under the title of the E. W. Gates Lumber Company in 1904, and subsequently got out a charter in that name.

Examiner Burchmore: Does it now have a separate charter?

Mr. Rich: Yes, sir.

Examiner Burchmore: When did you change it to a separate charter?

Mr. Rich: That was in 1910.

Examiner Burchmore: What is its capital stock at the present time?

Mr. Rich: Authorized, $700,000, actually paid in, $200,000. The investment stands the original owners $250,000.

Examiner Burchmore: Was it paid in by turning over the road?

Mr. Burlingame: Paid in by selling the road and some small addition in cash.

Examiner Burchmore: You spoke of those three trains that do not run on schedule.

Mr. Burlingame: Logging trains, doing the switching of the lumber.

Examiner Burchmore: Did you state what compensation the railroad received for carrying those logs?

6183 Mr. Burlingame: Three cents per 100.

Examiner Burchmore: Aren't the rates on your line on a milling in transit basis?

Mr. Burlingame: We get an allowance from the M. & O. of 3 cents, I think on a milling in transit basis, that is, the railroad does, but we charge the E. W. Gates Lumber Company as a railroad to handle their logs into the mill. The division has nothing to do with the other part of it.

Examiner Burchmore: That joint through rate on lumber applies from any point on your line to an interstate destination?

Mr. Burlingame: I would like to ask one question, if export business is interstate business?

Examiner Burchmore: Yes.

Mr. Burlingame: Then it does.

Examiner Burchmore: It does on exports?

Mr. Burlingame: Yes, sir.

Examiner Burchmore: How about domestic?

Mr. Burlingame: Yes, also on that.

Examiner Burchmore: Then if it applies from any station on your line, the joint interstate rate and the milling in transit privilege, isn't the Gates Lumber Company entitled to free move-

6184 ment of the logs from the point of origin to the mill and a movement of the lumber from the mill to destination at the joint through rate without any extra charge on the logs?

Mr. Burlingame: We do not consider that the E. W. Gates Lumber Company have anything to do with those privileges that accrue to the railroad.

Examiner Burchmore: Well, I was simply suggesting under the terms of the tariff if it is on a milling in transit basis which applies from all stations on your line to interstate destinations, the rate being the same from the point of origin, then hasn't the Gates Lumber Company as a shipper the right to demand the benefit of that joint through rate from any point on your line to the interstate destination without any additional charge on its logs?

Mr. Burlingame: We do not consider that it has that right.

Examiner Burchmore: How far is that mill from the tracks of the Mobile & Ohio Railroad?

Mr. Burlingame: The mill is maybe a quarter of a mile away from the M. & O.

Examiner Burchmore: Has the Washington & Choctaw Railroad Company——

6185 Mr. Burlingame: Mr. Commissioner, just a minute. I would like to say that the planer is located on the M. & O. tracks.

Examiner Burchmore: Does the Gates Lumber Company load its lumber from the planer into cars lying on the Mobile & Ohio tracks?

Mr. Burlingame: It does.

Examiner Burchmore: Then in case of a shipment of lumber loaded at that point moved into an interstate destination, what service does the Washington & Choctaw Railroad Company perform for which it should receive a division?

Mr. Burlingame: But a very small portion of the volume of the business handled comes from the planer, a majority of the product being shipped rough from the saw mill, in which event the M. & O. does not do any of the switching whatever.

Examiner Burchmore: Is that your full answer?

Mr. Burlingame: Yes, sir.

Examiner Burchmore: Why was this railroad incorporated separately as a common carrier railroad in 1909, if you know the reason?

Mr. Burlingame: For the purpose of assuming the privilege of eminent domain given us under our charter rights of 1904.

Examiner Burchmore: You already had that right as a
6186 charter right?

Mr. Burlingame: Yes, we thought it might be useful, and that is why we chartered the railroad.

Mr. Rich: May I ask a question?

Examiner Burchmore: Certainly.

Mr. Rich: I will ask you, has it not been under consideration by the owners of the railroad property for some time bonding the property or mortgaging the property and issuing bonds for the purpose of extending it?

Mr. Burlingame: It is the intention of the company to borrow money on securities issued by this railroad.

6187 Mr. Rich: In that connection was it not suggested to you by counsel and by others who were considering financing the property, that it would be better to separate the interests in the way which has been done?

Mr. Burlingame: It was suggested that the separation be made.

Mr. Rich: I think that is all.

Examiner Burchmore: You removed these logging spur tracks that were formerly connected with your road, that ran into the timber of the Gates Lumber Company?

Mr. Burlingame: We did.

Examiner Burchmore: Why did you remove them?

Mr. Burlingame: The E. W. Gates Lumber Company had no further use for them at that particular point and we relaid them at other points.

Examiner Burchmore: Have you put in any private tracks in order that farmers might get their fertilizer into different parts of their farms?

Mr. Burlingame: We have put in several special tracks of this description, and very recently for what we presumed to be permanent tracks.

Examiner Burchmore: Is the logging track that runs out
6188 from Matthews a permanent track or temporary?

Mr. Burlingame: It is a temporary track.

Examiner Burchmore: Did the Gates Lumber Company make you any special inducement to put that track down, beyond the promise that they would originate logs on which you would earn three cents?

Mr. Burlingame: The Gates Lumber Company built this as a spur of their own accord.

Examiner Burchmore: But did they charge the cost up to your road?

Mr. Burlingame: The railroad company participates to the extent of furnishing the rails only.

Examiner Burchmore: And they are compensated in your opinion for the use of the steel by the traffic that they get, the three cent charge on logs?

Mr. Burlingame: The compensation is for the repairs furnished, the engines and the equipment that belongs to the Washington & Choctaw Railroad.

Examiner Burchmore: Can you furnish us with a recent map of your road just as it stands today? It does not need to be an elaborate map.

Mr. Burlingame: We will do that.

6189 Examiner Burchmore: Does the Gates Lumber Company ship or sell any turpentine and resin?

Mr. Burlingame: It does not.

Examiner Burchmore: Does it farm out that privilege?

Mr. Burlingame: It formerly did but has no connection with the industry now.

Examiner Burchmore: Is this E. W. Gates Lumber Company related in any way to the Gates Lumber Company over in Arkansas or Louisiana?

Mr. Burlingame: They were formerly an offspring of that company.

Examiner Burchmore: But no connection at the present time?

Mr. Burlingame: None at the present time.

Examiner Burchmore: Do you know whether it is a fact that most short line railroads east of the Mississippi river as our information seems to be from this case, participate in joint rates with the trunk lines on lumber to Cairo, for example, have a joint rate that is one or two cents higher than junction point rates?

Mr. Burlingame: I understand that this condition is true on one road.

Examiner Burchmore: What road is that?

6190 Mr. Burlingame: On what I think is the A. & N. Railroad. I wish to say that very little of the product of our community reaches the interior market, that is when compared with the volume of the foreign products handled.

Examiner Burchmore: Do you know whether that is a fact on the Sumpter & Choctaw Railroad?

Mr. Burlingame: On the Sumpter & Choctaw Railway I cannot say.

Examiner Burchmore: Do you know whether those junction point rates apply to stations on their line?

Mr. Burlingame: I could not say.

Mr. Matthews: Have you a statement showing the traffic tonnage?

Mr. Burlingame: Only a memorandum of the tonnage, if that is what you desire.

Examiner Burchmore: We would like a statement of the tonnage similar to what we called for from the other road.

Mr. Rich: We will have that prepared.

Mr. Burlingame: It would not take but a few minutes if you want that copied.

Whereupon, at 6:30 P. M., a recess was taken until 8 o'clock P. M.

6191 After Recess.

JANUARY 27, 1911—8 o'clock p. m.

Brookings & Peach Orchard Railroad Company.

Mr. Walter: I want to say on behalf of the Brookings & Peach Orchard, that as far as that road is concerned, the auditor who had charge of the books has been recently married, and she left everything in a more or less disordered condition, and the records are in bad shape. Mr. Henry A. Quellmalz has been looking into the matter a little bit and if you want to hear from him, he will give you the best he can in a general way.

HENRY A. QUELLMALZ, was called as a witness, and having been duly sworn, testified as follows:

Direct examination:

Examiner Burchmore: Please state your name?

Mr. Quellmalz: H. A. Quellmalz.

Examiner Burchmore: What is your relation to the Brookings & Peach Orchard Railroad?

Mr. Quellmalz: Secretary.

Examiner Burchmore: As secretary what are your duties?

6192 Mr. Quellmalz: Why, I sign a majority of the papers that come from the road, and I also sign checks.

Examiner Burchmore: Do you also attend to the correspondence of the road?

Mr. Quellmalz: Why no, we have left that all to our traffic manager, who has attended to all that correspondence.

Examiner Burchmore: Do you attend to the correspondence for the Interstate Commerce Commission?

Mr. Quellmalz: How?

Examiner Burchmore: Do you attend to the correspondence with the Interstate Commerce Commission?

Mr. Quellmalz: Do I intend to correspond?

Examiner Burchmore: Do you attend to it?

Mr. Quellmalz: No, sir, I do not.

Examiner Burchmore: Does the road render annual reports to the Interstate Commerce Commission?

Mr. Quellmalz: They did in 1909, but up to 1910 they did not. In the last three or four days I have been trying to make up this report, but I have not succeeded as yet, but I intend to give it to the Interstate Commerce Commission by the middle of next week.

Examiner Burchmore: Do you know on what dates such
6193 reports are supposed to be filed with the Commission?

Mr. Quellmalz: No, I don't know a thing about it.

Examiner Burchmore: Does your company make reports to the Commission of its accidents?

Mr. Quellmalz: If they have any, I think they did.

Examiner Burchmore: Do you know whether the road has reported accidents to the Interstate Commerce Commission?

Mr. Quellmalz: No, I do not, I could not answer that question. I don't think they ever had any.

Examiner Burchmore: I will say that the Secretary for the Interstate Commerce Commission wrote to the superintendent of your railroad, Mr. Joe Nester——

Mr. Quellmalz: Yes, sir.

Examiner Burchmore: At Brookings, Arkansas.

Mr. Quellmalz: Yes.

Examiner Burchmore: Twice during the year 1908, asking him—calling his attention to the provisions of the Act to Regulate Commerce, requiring monthly reports of accidents, and no reply was ever received to either letter, and I am informed that the reports have not been filed.

Mr. Quellmalz: As I said before, I do not know of any accidents, of anyone ever having been injured.

6194 Mr. Walter: You are required to report whether there are any or not.

Mr. Quellmalz: I was not aware of that fact. I will see that they go in after this.

Examiner Burchmore: The Brookings & Peach Orchard Railroad connects with the Iron Mountain System, at Mollus?

Mr. Quellmalz: Mollus, Arkansas, Green county.

Examiner Burchmore: What is the length of this line?

Mr. Quellmalz: Approximately three miles.

Examiner Burchmore: Has it any side tracks?

Mr. Quellmalz: Why, it has one siding.

Examiner Burchmore: What is the length of that siding?

Mr. Quellmalz: About 120 feet.

Examiner Burchmore: Where is that siding?

Mr. Quellmalz: It is about 300 feet from the Iron Mountain I should judge. Here is a map that I drew of the railroad the best I could. It is a year since I have been on it. (Producing sketch.)

Examiner Burchmore: That siding connects at each end with the main line of your railway Company?

Mr. Quellmalz: With the main line of our railroad, yes, sir. This is the Iron Mountain Road and this is the saw mill.

6195 (Indicating on sketch.)

Examiner Burchmore: You are also secretary and treasurer

of the Henry Quellmalz Lumber Company?

Mr. Quellmalz: Secretary only.

Examiner Burchmore: Who is president of that railroad?

Mr. Quellmalz: Henry Quellmalz.

Examiner Burchmore: Is he the president of the lumber company you have just mentioned?

Mr. Quellmalz: Yes, sir.

Examiner Burchmore: Who is vice-president of the railroad?

Mr. Quellmalz: Mr. Arthur Quellmalz.

Examiner Burchmore: Is he vice-president of this railroad?

Mr. Quellmalz: Yes, sir.

Examiner Burchmore: What other officers has the railroad, if any?

Mr. Quellmalz: Well, the railroad has Joe Nester, who is its general superintendent, and L. M. Rowan, general traffic manager.

Examiner Burchmore: Are those gentlemen or either of them officers of the lumber company?

Mr. Quellmalz: Why, Mr. Nester is agent of the lumber company.

6196 Examiner Burchmore: As such agent what are his duties?

Mr. Quellmalz: Why, he buys lumber and logs for the mill.

Examiner Burchmore: What is his salary from the railroad company?

Mr. Quellmalz: He does not get any salary.

Examiner Burchmore: Do any of these officers receive a salary from the railway company?

Mr. Quellmalz: Yes, Miss Rowan receives $15 a month.

Examiner Burchmore: Miss Rowan?

Mr. Quellmalz: Yes, sir.

Examiner Burchmore: She is also employed by the lumber company?

Mr. Quellmalz: No, not at present. She was.

Examiner Burchmore: She is now employed by the railroad company?

Mr. Quellmalz: Yes, sir, she is.

Examiner Burchmore: I will ask you whether the stockholders who own a controlling interest in this railroad company, are not also the controlling stockholders in the lumber company?

Mr. Quellmalz: They are, yes, sir.

Examiner Burchmore: Are the stockholders in the two

6197 companies precisely identical?

Mr. Quellmalz: Well, no.

Examiner Burchmore: What differences are there in the holdings?

Mr. Quellmalz: Mr. Quellmalz owns 80 per cent of the Quellmalz Lumber & Manufacturing Company, and I think, he owns about 91 per cent of the Brookings & Peach Orchard—97½ per cent of the Brookings & Peach Orchard Railroad.

Examiner Burchmore: Who owns the other 3 per cent of the railroad stock?

Mr. Quellmalz: Why, I own a share, Mr. Arthur Quellmalz owns one, Wallace J. Brown, Joe Nester, G. Frank, Adam Baget, Henry Pirtle, John Russell, W. D. Polk, and George Fleetwood.

Examiner Burchmore: Those gentlemen are directors in the railroad?

Mr. Quellmalz: Not all of them. There are seven directors.

Examiner Burchmore: The Quellmalz Lumber Company has a saw mill on or near this railroad?

Mr. Quellmalz: On the river, the Black River.

Examiner Burchmore: On the Black River?

Mr. Quellmalz: Yes, sir.

Examiner Burchmore: And the railroad terminates near
6198 or opposite the saw mill?

Mr. Quellmalz: Terminates right at the river, that is, the spur, the road, the main part of the road runs right in the center of the mill.

Examiner Burchmore: We can put this in evidence?

Mr. Quellmalz: If you want.

(The map so offered and identified, was received in evidence and thereupon marked "Quellmalz Exhibit No. 1, received in evidence January 27, 1911," and is attached hereto.)

Examiner Burchmore: Where does the Quellmalz Lumber Company's mill obtain its logs?

Mr. Quellmalz: Obtains its logs from its own timber land north of the mill, west of the mill and south of the mill on the Black River. They cut these logs and have them hauled to the river by teams, and there they are rafted and brought down to the mill proper.

Examiner Burchmore: For what distance do they haul those logs by teams?

Mr. Quellmalz: Why, all the way from a quarter of a mile.

Examiner Burchmore: Do you know how far down the river they float the logs?

Mr. Quellmalz: How far they float them down the river?
6199 Examiner Burchmore: Yes.

Mr. Quellmalz: About, I think, all the way up to twenty miles, from the farthest distance.

Examiner Burchmore: What is the name by which the station at the mill is known?

Mr. Quellmalz: Brookings.

Examiner Burchmore: And the junction with the Iron Mountain is Mollus?

Mr. Quellmalz: Mollus.

Examiner Burchmore: What is the distance from Brookings to Mollus?

Mr. Quellmalz: I think it is three miles.

Examiner Burchmore: The Brookings & Peach Orchard Railroad have joint rates on lumber with the Iron Mountain to interstate destinations?

Mr. Quellmalz: Yes, sir.

Examiner Burchmore: What division does it receive out of those rates?

Mr. Quellmalz: Three cents a hundred.

Examiner Burchmore: Uniformly three cents?

Mr. Quellmalz: I think so, yes, sir. It is a flat rate.

Examiner Burchmore: The rate from Brookings is one
6200 cent higher than the Iron Mountain rate from Mollus?

Mr. Quellmalz: Yes, sir.

Examiner Burchmore: In all cases?

Mr. Quellmalz: Yes, sir.

Examiner Burchmore: You say they get a division of three cents. Do you mean they get three cents over one cent, or plus one cent arbitrary, or three cents including the one cent arbitrary?

Mr. Quellmalz: Three cents including a one cent arbitrary.

Examiner Burchmore: So that the Iron Mountain receives two cents less than its local rate?

Mr. Quellmalz: I think so.

Examiner Burchmore: When was this railroad company incorporated?

Mr. Quellmalz: On May 16, 1908, under the statute of Arkansas.

Examiner Burchmore: As a railroad common carrier?

Mr. Quellmalz: Yes, sir.

Examiner Burchmore: What is its capital stock?

Mr. Quellmalz: Six thousand dollars.

Examiner Burchmore: Was that all issued?

Mr. Quellmalz: Yes, sir.

6201 Examiner Burchmore: For cash?

Mr. Quellmalz: Yes, sir.

Examiner Burchmore: When was the railroad built?

Mr. Quellmalz: Why, it was built—it was rebuilt in 1908. It was a narrow gauge railroad when the Quellmalz Lumber & Manufacturing Company bought out the Lloyd G. Harris Manufacturing Company.

Examiner Burchmore: In what year did they buy it out?

Mr. Quellmalz: 1907.

Examiner Burchmore: That was before the railroad was incorporated?

Mr. Quellmalz: Yes, sir.

Examiner Burchmore: They bought the mill and the timber at the same time?

Mr. Quellmalz: Yes, sir.

Examiner Burchmore: Did they buy the river?

Mr. Quellmalz: I don't think they did.

Examiner Burchmore: I don't know what kind of a river that is, whether they could buy any rights on it.

Mr. Walter: Riparian rights?

Examiner Burchmore: Yes.

Mr. Quellmalz: It is not navigable.

6202 Examiner Burchmore: Did they buy the whole stream?

Mr. Quellmalz: No, they cannot.

Mr. Walter: I guess not.

Examiner Burchmore: Do they own on both sides of the stream?

Mr. Quellmalz: They own on both sides of the stream, yes.

Examiner Burchmore: Does the railroad own its own right of way?

Mr. Quellmalz: Yes, sir, it does.

Examiner Burchmore: Has it owned its right of way since the date of its incorporation?

Mr. Quellmalz: I think so.

Examiner Burchmore: Did it acquire any part of that right of way by condemnation?

Mr. Quellmalz: No, sir, I don't think they did.

Examiner Burchmore: Who owns the land on either side of the railroad?

Mr. Quellmalz: Why, to the best of my knowledge the Quellmalz Lumber & Manufacturing Company own part of it, and Wallace J. Brown the other part.

Examiner Burchmore: Who is Mr. Brown?

Mr. Quellmalz: Mr. Brown is a farmer living in the town
6203 of Brookings.

Examiner Burchmore: Do you know how much land he owns along the railroad?

Mr. Quellmalz: I could not tell you, no, sir.

Examiner Burchmore: Do the Quellmalz Lumber Company own the greater part of the land on each side of the road?

Mr. Quellmalz: Yes, sir, it does.

Examiner Burchmore: And they have sold Mr. Brown his present farm?

Mr. Quellmalz: No, they did not. He owned that farm before they ever came in there.

Examiner Burchmore: When was the line made a standard gauge line?

Mr. Quellmalz: Right after the incorporation.

Examiner Burchmore: What did the line cost, or what is its value?

Mr. Quellmalz: Well, they value it at about $220,000 now.

Examiner Burchmore: Are there any bonds on the line?

Mr. Quellmalz: No, sir, none at all.

Examiner Burchmore: Does it owe any money?

Mr. Quellmalz: Yes, sir; they owe $9,300.66.

Examiner Burchmore: To whom is that indebtedness owing?

6204 Mr. Quellmalz: To the Quellmalz Lumber & Manufacturing Company.

Examiner Burchmore: What use was made of the money thus obtained?

Mr. Quellmalz: They used it to buy steel with and ties, and rail equipment, equipment for the road.

Examiner Burchmore: Has the amount of money that has thus been owing to the Quellmalz Lumber Company ever been greater than it is now?

Mr. Quellmalz: No, sir, I don't think it has.

Examiner Burchmore: You stated, as I understood you, that $6,000 of capital stock was issued for cash. Was it not in fact issued in exchanged for the road acquired at the time of incorporation?

Mr. Quellmalz: Now, I do not exactly know. I think Mr. Quellmalz paid $6,000 for that railroad to the Quellmalz Lumber & Manufacturing Company.

Examiner Burchmore: And took the stock in exchange?

Mr. Quellmalz: I think so, yes, sir.

Examiner Burchmore: Did he give up part of the stock?

Mr. Quellmalz: No, I think he sold part of it.

Examiner Burchmore: For cash?

6205 Mr. Quellmalz: Yes, sir.

Examiner Burchmore: You own a share of stock?

Mr. Quellmalz: Yes, sir.

Examiner Burchmore: Did you buy it?

Mr. Quellmalz: I certainly did.

Examiner Burchmore: Paid good money for it?

Mr. Quellmalz: I certainly did.

Examiner Burchmore: Why did you buy it?

Mr. Quellmalz: Why, I thought it would be a good investment.

Examiner Burchmore: Has the stock paid any dividends?

Mr. Quellmalz: None at all.

Examiner Burchmore: Do you think it promises to pay dividends?

Mr. Quellmalz: That is a hard question for me to answer now.

Examiner Burchmore: Any boat line on the Black River?

Mr. Quellmalz: We have just bought a boat and barge.

Examiner Burchmore: Who has purchased it?

Mr. Quellmalz: The Brookings & Peach Orchard Railroad.

Examiner Burchmore: Where will they operate or be run to or from?

6206 Mr. Quellmalz: It will run from Pocahontas, Arkansas, to Brookings, and from Wammus Point to Poplar Bluff.

Examiner Burchmore: What kind of freight do you expect to carry on those barges?

Mr. Quellmalz: Why, they expect to transport ties that are cut on different people's land around there, that is not reached by the railroad, down to Brookings Station, and from there take it to the Iron Mountain.

Examiner Burchmore: There is a rice farm right up there too, isn't there?

Mr. Quellmalz: Yes, they expect to haul out rice.

Examiner Burchmore: How soon will your boats be in operation?

Mr. Quellmalz: They expect to have them in operation the latter part of next month.

Examiner Burchmore: What did you pay for them?

Mr. Quellmalz: I could not answer that question; I don't know.

Examiner Burchmore: Do you know where the money was raised to pay for them?

Mr. Quellmalz: I don't know that.

Examiner Burchmore: Is that included in this $9,000 in-
6207 debtedness?

Mr. Quellmalz: No, sir.

Examiner Burchmore: Who owns the steel out of which this railroad is constructed?

Mr. Quellmalz: The Brookings & Peach Orchard Railroad.

Examiner Burchmore: Did the Iron Mountain furnish any part of that steel?

Mr. Quellmalz: The Iron Mountain Railroad furnished the steel for the spur, I think, that connects with the Brookings & Peach Orchard Railroad.

Examiner Burchmore: For what distance?

Mr. Quellmalz: That is something I do not know, I think about approximately 300 feet.

Examiner Burchmore: Have you any sort of contract or agreement with the Iron Mountain covering that track?

Mr. Quellmalz: No, sir, not that I know of.

Examiner Burchmore: Are there any depots or other structures on your line?

Mr. Quellmalz: No, sir, a few farm houses.

Examiner Burchmore: Any other saw mills along your line?

Mr. Quellmalz: Yes, sir, we have three saw mills in our vicinity who haul lumber to our city of Brookings. Gibbs-
6208 Stanage——

Examiner Burchmore: What is their capacity?

Mr. Quellmalz: About ten or eleven thousand feet a day. A gentleman by the name of Scott owns a saw mill, and he also owns all the timber that is around there, and he cuts about twelve or fifteen thousand feet a day, and a gentleman by the name of Ragsdale has a saw mill about, say, two miles from our city of Brookings, who cuts about 10,000 feet a day.

Examiner Burchmore: How far does Stanage haul his lumber?

Mr. Quellmalz: I should think about a mile.

Examiner Burchmore: How about the other man?

Mr. Quellmalz: Scott?

Examiner Burchmore: Yes.

Mr. Quellmalz: About the same distance.

Examiner Burchmore: Where do they get their logs?

Mr. Quellmalz: Why, they get their logs off of their own land outside of this gentleman by the name of Stanage, and he buys his lumber off of Henry Pirtle, who owns quite a tract of timber land around there, and also a gentleman by the name of Shue.

Examiner Burchmore: Does their mill make hardwood?

Mr. Quellmalz: Yes, sir.

6209 Examiner Burchmore: What does Quellmalz manufacture?

Mr. Quellmalz: Hardwood.

Examiner Burchmore: Do they ship any of their lumber over your line?

Mr. Quellmalz: They do, yes, sir.

Examiner Burchmore: The major portion of it?

Mr. Quellmalz: Why, they ship——

Examiner Burchmore: We will let the tonnage go for a little while, unless you want to bring it in at this time.

Mr. Quellmalz: It is immaterial to me. What was the last question?

Examiner Burchmore: Do they ship most of their tonnage over your line?

Mr. Quellmalz: Yes, sir, they do.

Examiner Burchmore: They do not ship any down the river?

Mr. Quellmalz: No.

Examiner Burchmore: What sort of a town is Brookings?

Mr. Quellmalz: About 150. It is a mill and a farm town. Farms all around it. They are clearing right along, putting it into cultivation.

Examiner Burchmore: Does the Quellmalz Company have any company store there?

6210 Mr. Quellmalz: Yes, sir, they do.

Examiner Burchmore: Are there any other stores there?

Mr. Quellmalz: None at all.

Examiner Burchmore: A post office?

Mr. Quellmalz: A post office, yes, sir.

Examiner Burchmore: Is there any town or settlement along the line, other than Brookings?

Mr. Quellmalz: No, sir, not along this railroad.

Examiner Burchmore: What is there at Mollus?

Mr. Quellmalz: There is just a house put up there by the Quellmalz people, who used to have a man out there flagging trains, and now our section foreman lives out there.

Examiner Burchmore: Is the road ballasted?

Mr. Quellmalz: Yes, sir.

Examiner Burchmore: How many locomotives have you?

Mr. Quellmalz: One.

Examiner Burchmore: Box cars?

Mr. Quellmalz: No, sir.

Examiner Burchmore: Any flat cars?

Mr. Quellmalz: We have two standard flat cars, and two small cars carrying about 10,000 pounds. The flat cars also——

6211 Examiner Burchmore: Ten thousand pounds?

Mr. Quellmalz: Yes, sir.

Examiner Burchmore: How many train crews have you?

Mr. Quellmalz: Only have one train crew.

Examiner Burchmore: How many section gangs?

Mr. Quellmalz: One.

Examiner Burchmore: Any employés in the general office who receive a salary?

Mr. Quellmalz: No, sir.

Examiner Burchmore: Do you run a regular train service?

Mr. Quellmalz: Why no, they run something once in a while, they run one train a day out and back, sometimes two or three days according to what business they have.

Examiner Burchmore: How many cars in a train?

Mr. Quellmalz: From two to three.

Examiner Burchmore: Do you carry passengers?

Mr. Quellmalz: No, sir.

Examiner Burchmore: Incorporated as a carrier only of freight?

Mr. Quellmalz: I don't know. I think they are incorporated as a railroad.

Examiner Burchmore: Do you carry the mails?

6212 Mr. Quellmalz: No, sir.

Examiner Burchmore: Express matter?

Mr. Quellmalz: No, sir.

Examiner Burchmore: What figures can you give me on your freight tonnage and the revenue from it?

Mr. Quellmalz: Last year we hauled 8,563 tons all told. Our revenue amounted to $5,072.49.

Examiner Burchmore: How much of that was lumber? Didn't you haul any other kind of freight?

Mr. Quellmalz: There was one carload of corn went out of there. It was loaded at Brown and went to Corning. That was all that I can remember.

Examiner Burchmore: Do you know what your earnings were on that car, can you remember?

Mr. Quellmalz: I do not, no, sir.

6213 Examiner Burchmore: How much of that lumber came from the Quellmalz saw mill?

Mr. Quellmalz: 88.8 per cent.

Examiner Burchmore: How many tons—have you got the figures?

Mr. Quellmalz: Yes, sir, I think I have. There was 960 tons from outsiders.

Examiner Burchmore: That will do. And what was the revenue from outsiders?

Mr. Quellmalz: $576.00.

Examiner Burchmore: Those outsiders were the three saw mills you mentioned a little while ago, those outsiders consisted of the three saw mills that you have mentioned?

Mr. Quellmalz: Yes, sir.

Examiner Burchmore: There was somewhat of an increased outside traffic over the previous year, was there not?

Mr. Quellmalz: Yes, sir, I think it was. They were not going the year before, just cut for a while. For one thing or another they could not get into the timber to get out their logs.

Examiner Burchmore: What were your total revenues for the year, the total operating revenues?

6214 Mr. Quellmalz: $5,072.49.

Examiner Burchmore: What was the operating expense?

Mr. Quellmalz: Well now there is a question that I can not answer because I have not got that far into the book. As far as I have gotten they are about $3,200.00.

Examiner Burchmore: You mean you have not got the accounts made up for the year?

Mr. Quellmalz: They are made up, they are all down, and one thing and another, but I did not get that part of the book——

Examiner Burchmore: Do you think you made a profit from operation last year?

Mr. Quellmalz: Yes, sir, I do.

Examiner Burchmore: Have you made a profit in previous years?

Mr. Quellmalz: No, sir.

Examiner Burchmore: Where did you get the money to make up the deficit?

Mr. Quellmalz: Why the Quellmalz Lumber and Manufacturing Company furnished the money.

Examiner Burchmore: The profits of this year, I assume, will properly be applied on the reduction of your debt that you
6215 were speaking of?

Mr. Quellmalz: No, sir, it won't. We intend to buy a couple of more cars and fix up the track a little.

Examiner Burchmore: Who furnishes the cars for the movement of lumber from the mill when furnished by other shippers at Brookings when destined to interstate points?

Mr. Quellmalz: The Iron Mountain Railroad.

Examiner Burchmore: They furnish the empty cars?

Mr. Quellmalz: Yes, sir.

Examiner Burchmore: Then for this division of three cents, you haul the empty cars the entire length of your line and haul the loaded cars in the reverse direction the entire length of your line?

Mr. Quellmalz: Yes, sir, we do.

Examiner Burchmore: Who loads the lumber?

Mr. Quellmalz: The Quellmalz Lumber and Manufacturing Company.

Examiner Burchmore: Does your railroad issue any bills-of lading?

Mr. Quellmalz: They do; yes, sir.

Examiner Burchmore: Where is that actually issued?

Mr. Quellmalz: It is issued at Brookings, way-bills and
6216 bills-of-lading.

Examiner Burchmore: This bookkeeper that you mention, she is out there?

Mr. Quellmalz: Yes, sir.

Examiner Burchmore: Has there been any complaint against your road which has come to your knowledge, by these other mills out there?

Mr. Quellmalz: None whatever, no, sir.

Examiner Burchmore: Do you have any passes over the Iron Mountain Railroad?

Mr. Quellmalz: The President, and the Agent—and the General Superintendent have.

Examiner Burchmore: They are also officers of the lumber company?

Mr. Quellmalz: Yes, sir.

Examiner Burchmore: Who did you say had Iron Mountain passes?

Mr. Quellmalz: Mr. Quellmalz, our president, and the general superintendent.

Examiner Burchmore: Mr. Joe Nester?
Mr. Quellmalz: Yes, sir.
Examiner Burchmore: Did you come to St. Louis on a pass?
6217 Mr. Quellmalz: Did I come? Yes, sir, I had a trip pass.
Mr. Walter: Do you mean to this present hearing?
Mr. Quellmalz: Yes.
Mr. Walter: He lives here.
Mr. Quellmalz: I live here in St. Louis.
Examiner Burchmore: Have you ever held or used an annual pass?
Mr. Quellmalz: No, sir.
Examiner Burchmore: Mr. Nester is a timber buyer for the lumber company, isn't he?
Mr. Quellmalz: Yes, sir.
Examiner Burchmore: Does he travel around the country sometimes to buy timber?
Mr. Quellmalz: Yes, sir, he does.
Examiner Burchmore: Does he pay fare when he travels on such trips?
Mr. Quellmalz: Well I don't know whether he does or not. I have never seen him use his ticket.
Examiner Burchmore: You suppose he uses a pass on the roads that he has it?
Mr. Quellmalz: Yes, I suppose so.
Examiner Burchmore: What is the rate to St. Louis from
6218 Brookings?
Mr. Quellmalz: Fourteen cents now.
Examiner Burchmore: What distance is that on the Iron Mountain from Mollus to St. Louis?
Mr. Quellmalz: I think it is about 205 miles.
Examiner Burchmore: Mr. Walter?
Mr. Walter: I don't think I have any questions I wish to cover. You have never refused to haul any traffic that has been offered to you by any of these outsiders?
Mr. Quellmalz: None whatever, no, sir.
Mr. Walter: That is all.

Cross-examination:

Mr. Coleman: Mr. Quellmalz, you referred to a barge line that you intended to operate in conjunction with the railroad. Have you decided upon the rates that you intend to put in effect?
Mr. Quellmalz: Not yet, no, sir.
Mr. Coleman: Do you intend to devote the capacity of that barge line to hauling ties?
Mr. Quellmalz: Well, yes, ties and bolts.
Mr. Coleman: Have you any idea of the basis of rates that
6219 you intend to put into effect?
Mr. Quellmalz: Why I don't know. I think that we will write to the Commission of Arkansas and ask them what we have a right to charge on that kind of transportation.
Mr. Coleman: You have fully decided on making the investment?

Mr. Quellmalz: Yes, I think we have.

Mr. Coleman: Well, in doing so, and canvassing the matter, you must have approximated the earning power of the barge line, did you not?

Mr. Quellmalz: Yes, we did.

Mr. Coleman: Now about what approximate revenue did you figure that the barge line and the railroad company should earn per hundred pounds on ties to the point of junction with the Iron Mountain road?

Mr. Quellmalz: Well about six cents.

Mr. Coleman: Six cents per hundred?

Mr. Quellmalz: Yes, sir.

Mr. Coleman: What?

Mr. Quellmalz: Yes, sir.

Mr. Coleman: What proportion of that did you expect to get from your connection—your standard railroad connection?

6220 Mr. Quellmalz: I do not get that question.

Mr. Coleman: Did you expect to get any or all of the six cents per hundred pounds from your connection—the Iron — road or its connection?

Mr. Quellmalz: No, we intend to operate those barges as a local transportation company, not in connection with the railroad.

Mr. Coleman: Not in connection with the railroad?

Mr. Quellmalz: That is, deliver the stuff to the railroad company, but we expect to make that a local charge.

Mr. Coleman: Then you expect, however, simultaneously that in handling the ties the railroad will get a proportion of the rate?

Mr. Quellmalz: Certainly, we want to increase the earnings of the railroad company as much as we possibly can.

Mr. Coleman: Now, what did you calculate that you would get from the amount accruing to the Iron Mountain and its connections and your railroad line on the ties?

Mr. Quellmalz: Well I don't know; I could not answer that question.

Mr. Coleman: You testified, however, that you had in
6221 mind an earning that the railroad was to get as a proportion of a through rate. Now, what proportion—have you no idea? You say you have planned on the investment.

Mr. Quellmalz: Well, they will get their regular division of three cents from the Iron Mountain Railroad.

Mr. Coleman: Then you have figured on three cents. What did you figure that your boat line would receive, three cents or the balance of the six?

Mr. Quellmalz: Yes, that is what we figured. We don't know whether it will pay or not. We have to try it out first.

Mr. Coleman: Not being safe in your judgment as to whether it would pay or not, it was intended, was it not, that your lumber company or some affiliated interests with your railroad or boat line would buy these ties?

Mr. Quellmalz: Well, no. We do not expect to sell those ties to our railroad or to the lumber company.

Mr. Coleman: But my question intended to ascertain from you whether as a commercial proposition someone affiliated with your railroad or your lumber company would go into the market and buy these ties.

Mr. Quellmalz: No, sir.

Mr. Coleman: You did not think——

6222 Mr. Quellmalz: No, sir.

Mr. Coleman: That that was the idea?

Mr. Quellmalz: No, sir, it was not.

Mr. Coleman: You say you are secretary of the company?

Mr. Quellmalz: Yes, sir.

Mr. Coleman: Do you enter into the matter of planning for investments of this kind?

Mr. Quellmalz: No, sir, I do not.

Mr. Coleman: Was it your expectation that your boat line would handle these ties from the dock onto the barge?

Mr. Quellmalz: Yes, it was.

Mr. Coleman: And discharge them and load them onto the cars?

Mr. Quellmalz: Yes, I think it was.

Mr. Coleman: Do you think it can operate that service for three cents a hundred?

Mr. Quellmalz: I think we could, yes, because we can load the cars right from the barge that we bring them down on and load them right——

Mr. Coleman: What becomes of the load?

Mr. Quellmalz: You can take them right from the barge. The barge is right level with the railroad tracks there, the surface of the car would be level and we could take the ties right off of the

6223 barges and transfer them onto flat cars, provided we could get the flat cars.

Mr. Coleman: Have you tried that to find out what it would cost?

Mr. Quellmalz: No, we have never tested it.

Mr. Coleman: Then you expect to load those ties onto a boat and take them up and load them onto cars and make a profit on three cents per hundred pounds?

Mr. Quellmalz: That is our intention, yes, sir.

Mr. Coleman: You spoke of someone in charge of the purchases of timber for your company riding on free transportation or having free transportation.

Mr. Quellmalz: I said that our general superintendent has transportation over the Iron Mountain Railroad.

Mr. Coleman: I understood you to testify that someone that bought timber for you had this transportation.

Mr. Quellmalz: Well, this gentleman is employed as agent of the Quellmalz Lumber Company. He does buy timber for the Quellmalz Lumber and Manufacturing Company; yes, sir, he is employed by them.

Mr. Coleman: Does he buy lumber also?

Mr. Quellmalz: Yes, sir, he does.

6224 Mr. Coleman: Do you haul logs in on other lines to your mill?

Mr. Quellmalz: No, sir.

Mr. Coleman: Have you mills elsewhere?

Mr. Quellmalz: No, sir.

Mr. Coleman: What occasion would there be for him to buy timber then?

Mr. Quellmalz: He floats it down the Black River.

Mr. Coleman: That is, he buys it down the Black River?

Mr. Quellmalz: Yes, sir.

Mr. Coleman: Then he would have no occasion to use this annual transportation for buying timber on these railroads?

Mr. Quellmalz: Why, yes, I guess he would have.

Mr. Coleman: What would you do with that timber?

Mr. Quellmalz: Well we would float it down the Black River to our sawmill which crosses the Iron Mountain tracks.

Mr. Coleman: Well, I mean buying timber on the railroad. Would you buy it on the Iron Mountain Railroad?

Mr. Quellmalz: Yes, sir.

Mr. Coleman: And pay a rate on that timber?

Mr. Quellmalz: We do not buy it on the Iron Mountain Railroad. We buy it on the Black River.

Mr. Coleman: You were asked the question as to whether
6225 an annual pass was ever used in connection with trips made by this man buying timber. I presume that he bought the timber where he used the transportation. He did not use the annual transportation of the Iron Mountain road on the river, did he?

Mr. Quellmalz: No. I don't think you understand that thoroughly. This timber is located along the Black River, and the Iron Mountain Railroad runs along the Black River and crosses the Black River at two intersections. Now, this timber lies in between the Black River and the Iron Mountain Railroad tracks.

Mr. Coleman: Does he buy lumber also?

Mr. Quellmalz: Yes, sir, he does.

Mr. Coleman: He would buy ties too, wouldn't he?

Mr. Quellmalz: Well, I don't know as he ever bought any ties.

Mr. Coleman: Are you sure now that it was not contemplated when you decided to make the investment in the barge line that your lumber company or your railroad company having this man as their buyer, would buy the ties?

Mr. Quellmalz: No, sir.

Mr. Coleman: Then it is to transport ties from different people?

6226 Mr. Quellmalz: That is the idea, yes, sir.

Mr. Coleman: Have you in mind any concern that will buy those ties?

Mr. Quellmalz: Why I don't know who would buy them, but there are people on the Black River above us who have land that they are clearing, and there is a good grade of lumber on that property outside of tie timber. Now, they clear that out and they make ties out of that timber, and they will give those ties to us to haul down to our railroad, you understand, and send them out, but

we have nothing to do with the selling of those ties or the purchase of those ties.

Examiner Burchmore: If they wanted to ship those ties out over the Iron Mountain Railroad instead of floating them down the Black River, how far would they have to team them to get them to the Iron Mountain?

Mr. Quellmalz: Seven miles, I think.

Mr. Coleman: And they could run them by barge down to the Iron Mountain road the same way?

Mr. Quellmalz: No, they could not run them down to the Iron Mountain road by barge.

Mr. Coleman: I understand your testimony to mean that you expect for three cents per hundred pounds you will be able to
6227 see a profit in handling those ties onto your barge, transporting them, taking them off of the barge and loading them on the cars?

Mr. Quellmalz: Well now I said I thought that that would be the charge. Now I am not sure.

Mr. Coleman: You know that your company has no purpose in mind of going in the market to buy them?

Mr. Quellmalz: I am positive of that, yes, sir.

Mr. Coleman: That is all.

Mr. Walter: There is just one question I want to ask. Three cents a hundred pounds would be how much per tie? How much would a tie weigh?

Mr. Quellmalz: A tie will weigh about from 170 to 200 pounds.

Mr. Walter: That is all.

6228 *Trinity Valley & Northern Railway Company.*

J. J. BALDERACH was called as a witness, and having been duly sworn, testified as follows:

Direct examination:

Examiner Gutheim: State your name to the reporter.

Mr. Balderach: J. J. Balderach.

Examiner Gutheim: Where do you live, Mr. Balderach?

Mr. Balderach: Dayton, Texas.

Examiner Gutheim: What is your occupation?

Mr. Balderach: I was formerly treasurer and auditor of the Trinity Valley & Northern, but I hold the title of auditor of the Trinity Valley & Northern, about since the first of the year.

Examiner Gutheim: Will you describe the location of the Trinity Valley & Northern Railway?

Mr. Balderach: Yes, I have a map here that I would like to submit.

Examiner Gutheim: Will you file the map?

Mr. Balderach: Yes, for the record, and I will try to explain this more fully.

(The map so offered and identified was received in evidence and thereupon marked "Balderach Exhibit No. 1," received in
6229 evidence January 27, 1911, and is attached hereto.)

Examiner Gutheim: According to this map then, the road runs from Dayton on the T. & N. O. Railroad?

Mr. Balderach: Yes, sir.

Examiner Gutheim: In a sort of a general northerly direction?

Mr. Balderach: Northeasterly direction, I believe it is, more.

Examiner Gutheim: What is the other terminus?

Mr. Balderach: It is Fouts, Texas. We have extended the line eight miles north of Fouts to a place called Lumm, designated up here as Mile 18. That eight miles north of Fouts has not as yet been put in operation, but is expected to be put in the first of February, freight and passenger service will be extended to that portion of the line.

Examiner Gutheim: How much have you been operating up to the present time?

Mr. Balderach: Ten miles.

Examiner Gutheim: And your road to go into operation about the 1st of February will be eight miles further?

Mr. Balderach: Yes, sir; making a total of eighteen miles.

Examiner Gutheim: Is that road standard gauge throughout?

6230 Mr. Balderach: Yes, sir.

Examiner Gutheim: About how heavy a rail?

Mr. Balderach: Fifty pound rail.

Examiner Gutheim: Is that rail owned by the Trinity Valley & Northern Railroad?

Mr. Balderach: No, sir, it is leased.

Examiner Gutheim: Who from?

Mr. Balderach: Texas & New Orleans Railroad Company.

Examiner Gutheim: What is the consideration paid for the lease?

Mr. Balderach: $100 per mile per annum, or the equivalent of 4 per cent on $40,000.

Examiner Gutheim: Have you any other connection?

Mr. Balderach: Yes, sir.

Examiner Gutheim: Besides the T. & N. O. connection?

Mr. Balderach: Yes, sir, Fullerton, Texas, with the Beaumont, Sour Lake & Western Railway Company.

Examiner Gutheim: Is that a Frisco line?

Mr. Balderach: That is what they call the Frisco Lines in Texas.

Examiner Gutheim: What is the most important industry *of* the line of this road?

6231 Mr. Balderach: Forest products.

Examiner Gutheim: And what company owns the largest mill?

Mr. Balderach: The Dayton Lumber Company.

Examiner Gutheim: Where is that mill located?

Mr. Balderach: At Ladd, Texas, approximately a mile from the trunk line.

Examiner Gutheim: Is it all of a mile?

Mr. Balderach: Approximately a mile, it is about 5,000 feet.

Examiner Gutheim: How far is that from the Frisco connection at Fullerton?

Mr. Balderach: It is 4.8 miles.

Examiner Gutheim: Is the Dayton Lumber Company as a corporation, or through its stockholders, interested in the Trinity Valley & Northern Railway?

Mr. Balderach: Yes, sir; the controlling interest of the railroad company is held by the stockholders of the Dayton Lumber Company.

Examiner Gutheim: Is all the stock of the railroad company held by the stockholers of the Dayton Lumber Company?

Mr. Balderach: No, sir.

Examiner Gutheim: How much stock of the railroad com-
6232 pany is held by parties not connected with the lumber company in any way?

Mr. Balderach: Well, there is Mr. W. P. Cottingham, used to be secretary of the company, he owns one share, and S. H. Fullerton, of St. Louis, who is interested in the company, he does not own any stock in the lumber company. I cannot give you the shares. I think our report to the Railroad Commission of Texas shows the individual stockholders, 50 shares.

Examiner Gutheim: Mr. Fullerton owns 50 shares?

Mr. Balderach: Fifty shares.

Examiner Gutheim: Is he the only stockholder outside of the stockholders of the Dayton Lumber Company owning anything more than sufficient to qualify as a director?

Mr. Balderach: Sir?

Examiner Gutheim: I say, is Mr. Fullerton the only stockholder of the railroad not a stockholder of the Dayton Lumber Company who holds more stock than just what is necessary to qualify as a director?

Mr. Balderach: Well, I think there is Mr. L. J. Boykin. I am not positive, but I think he does not own any stock in the Dayton Lumber Company. He owns one share, I think, one or two
6233 shares of the railroad.

Examiner Gutheim: But the same individuals through stock ownership can control the policy of both these corporations?

Mr. Balderach: Yes, sir. As I stated before, the controlling interest of the railroad was held by the stockholders of the Dayton Lumber Company.

Examiner Gutheim: You say Mr. S. H. Fullerton has no interest whatever in the Dayton Lumber Company?

Mr. Balderach: Yes, sir.

Examiner Gutheim: Do you know whether any of the so-called Fullerton Companies have any interest in the Dayton Lumber Company?

Mr. Balderach: I am not familiar with the accounts of the Dayton Lumber Company.

Examiner Gutheim: The Chicago Lumber & Coal Company, do they have any interest in it?

Mr. Balderach: I have no connection with the lumber company at all. Never have seen their books, never have looked into the general subject.

Examiner Burchmore: Have you any opinion on that subject?

Mr. Balderach: No, sir, I have never formed any opinion because I have not investigated the business of the lumber
6234 company. I am not a lumberman.

Mr. Walter: Mr. Fullerton is here and he can tell you.

Examiner Gutheim: Mr. Balderach, does the Dayton Lumber Company sell its products direct through the Dayton Lumber Company or through a sales agent?

Mr. Balderach: Through a sales agency.

Examiner Gutheim: What sales agency?

Mr. Balderach: It is the Alf. Bennett Lumber Company of St. Louis.

Examiner Gutheim: Are the officials of the railroad company the same individuals who hold some official relation to the lumber company?

Mr. Balderach: Yes, sir.

Examiner Gutheim: About how much equipment do you have?

Mr. Balderach: We have eight flat cars, seven box cars, one passenger coach, or a total of sixteen cars of all classes, and one locomotive, all equipped with train brakes, automatic couplers, safety appliances, and so forth.

Examiner Gutheim: What is the investment of this company in the cost of its road and equipment?

Mr. Balderach: The latest trial balance that we have is of date October 31, 1910, and the physical property owned at that
6235 date is $122,059.38.

Examiner Gutheim: That covers the eighteen miles of road right up to Mile Post 18?

Mr. Balderach: Yes, sir.

Examiner Gutheim: Or only such part as was built up to last October?

Mr. Balderach: Up to October 31, 1910.

Examiner Gutheim: Was it practically all constructed at that time?

Mr. Balderach: No, sir; there has been quite a little construction work carried on since.

Examiner Gutheim: What is the total amount of capital stock outstanding?

Mr. Balderach: $25,000.

Examiner Gutheim: What other indebtedness does the company owe?

Mr. Balderach: We are indebted to the Dayton Lumber Company for about $62,537.87, if I remember the account correctly.

Examiner Gutheim: Have you any other outstanding indebtedness?

Mr. Balderach: Yes, we have some trust notes covering a
6236 purchase of five flat cars from the Hicks Locomotive & Car Works.

Examiner Gutheim: How much is that?

Mr. Balderach: It was originally $1,625, but the notes have been taken up as they matured, and we have decreased the indebtedness now to $180.53.

Examiner Gutheim: So that you seem to have about $87,000 outstanding in capital indebtedness?

Mr. Balderach: Yes, sir. Approximately $87,000, more or less.

Examiner Gutheim: How do you carry the rest of the amount, the difference between the equipment investment of $122,000 and this $87,000, as a surplus?

Mr. Balderach: No, that is not a surplus. Our voucher account, audited voucher account shows liabilities of $8,721.52. We have a pay check account which a portion of that represents, pay checks issued in favor of employés engaged in construction service. We also are indebted to several contractors for grading work, which has never been paid for.

Examiner Gutheim: How much is paid to the Dayton Lumber Company in the way of interest on the amount due it?

Mr. Balderach: 8 per cent per annum.

6237 Examiner Gutheim: Is that paid from year to year?

Mr. Balderach: Why, it has not been paid. It has been accrued. We have never had enough money to take up all our obligations, and if we ever do, we will pay them.

Examiner Gutheim: Does the road run its train on a regular schedule?

Mr. Balderach: Yes, sir; I have a time table here I would like to file into the record.

Examiner Gutheim: You may file that as your exhibit 2.

Mr. Balderach: All right, sir.

(The time table so offered and identified, was received in evidence and thereupon marked "Balderach Exhibit No. 2, received in evidence January 27, 1911", and is attached hereto.)

Examiner Gutheim: Do you operate both passenger and freight service?

Mr. Balderach: Yes, sir, we operate on a double daily service.

Examiner Gutheim: Do you carry any United States mail or express?

Mr. Balderach: Yes, sir, under formal contract entered into at the Post Office Department of the United States Govern-
6238 ment, effective November 1, 1910.

Examiner Gutheim: What other communities along the road are served by this company as a common carrier?

Mr. Balderach: Well, Dayton, Texas, is the junction point with the T. & N. O. Railroad Company, and it is assuming proportions as a distributing center, have five or six mercantile houses there, and those merchants supply the interior farmers, that is, I mean by interior farmers, the people living adjacent to the line of the Trinity

Valley & Northern for a distance of three to five miles. We have a station at Ladd, Texas, which is an open station, and we have several tie camps along the line. We also have an open station at Fouts, Texas, and we contemplate establishing an agency at Lumm station.

In connection with the Lumm station, I wish to state that it is located on what is known as Talkington Prairie, and it is an old settlement up there. The land is very productive, I understand, and we might possibly have a large town there some day—that is, I say a large town, a large country town, probably seven to eight hundred to a thousand people. Arrangements have been made to establish a town there. One of the merchants who has a grocery store
6239 and general merchandise establishment, having the post office, is going to move his place of business on our line.

Examiner Gutheim: Ladd, where you have an open station, is the site of the Dayton Lumber Company's mill is it not?

Mr. Balderach: Yes, sir.

Examiner Gutheim: And is the railroad station agent a mill employé or a lumber company employé?

Mr. Balderach: No, sir, the agent at Ladd, Texas, has no connection with the Dayton Lumber Company.

Examiner Gutheim: Now, at Fouts, where your line has opened a station, is that a logging camp of the Dayton Lumber Company?

Mr. Balderach: Yes, sir, it might be considered a logging camp. It was established there because the people who owned the land dedicated a town site. It was formerly called Rosswood. Messrs. Ross & Wood of Houston Texas, owned the land and dedicated a townsite that was named in their honor, but subsequently changed to Fouts, Texas; I presume in honor of our former president.

Examiner Gutherim: Well, is the agent at Fouts an employé of the lumber company?

Mr. Balderach: He was but he is not now.

6240 Examiner Gutheim: He is not now?

Mr. Balderach: No, sir.

Examiner Gutheim: This station called Lumm, is the Dayton Lumber Company logging in that vicinity at the present time?

Mr. Balderach: Yes, sir. I don't know whether they are logging right at Lumm, but I know it is north of Fouts.

Examiner Gutheim: Is there a camp at Lumm?

Mr. Balderach: No, the camp is at Fouts, Texas.

Examiner Gutheim: How far is that projected extension up to the Santa Fe connection at Lamb?

Mr. Balderach: I think it is about twelve miles.

Examiner Gutheim: Has there been any actual work done on that line?

Mr. Balderach: Yes, sir, our engineer, Mr. A. J. Wise, of Houston, Texas, has made a preliminary survey up through that territory and has just sent in his bill about thirty days ago for $450 for his services.

Examiner Gutheim: Now, do you make any distinction in the character of your railroad service between Dayton or Ladd and Fouts, and between Fouts and Lumm?

Mr. Balderach: We do not operate to Lumm now. The operation of the railroad has not been continued to Lumm because we
6241 do not have the rails for that portion of the line, but we have a service between Dayton and Ladd and Fouts and Fullerton. Our train No. 1 leaves Fouts and runs into Dayton, and our Train No. 2 leaves Dayton and runs down to Fouts. Train No. 3 leaves Fouts and runs to Ladd, and Train No. 4 leaves Ladd and runs out to Fouts.

Examiner Gutheim: There is some railroad operation north of Fouts up to Lamb at the present time, is there not?

Mr. Balderach: The Dayton Lumber Company's engine does a logging service.

Examiner Gutheim: That is the track extension that has recently increased your cost of road?

Mr. Balderach: Yes, sir. I might also say that in the month of December there was a crowd came out from Houston, went out to the northern terminus of our line, and we charged them for the train haul, also charged them for the additional equipment. That is the only revenue from train service on that portion of the line.

Examiner Gutheim: How long has the Dayton Lumber Company been running its logging trains between Lamb and Fouts?

Mr. Balderach: Why now, the Dayton Lumber Company has not been operating to Lamb, it is north of Fouts.

6242 Examiner Gutheim: Well, north of Fouts.

Mr. Balderach: Yes, sir—Well, it is over a year.

Examiner Gutheim: And what consideration do they pay to the Trinity Valley & Northern Railroad Company for the service?

Mr. Balderach: They now pay one dollar per train mile under a trackage contract. I don't know whether that contract has been filed with the Commission or not. If it has not, we will file a copy of it.

Examiner Burchmore: Suppose you file a copy.

Mr. Balderach: I have not a copy here, but the original. I will have a copy made from that and send it to you.

Examiner Gutheim: About how many cars in a train do you run?

Mr. Balderach: Why, I have some statistics here that show our average number of loaded cars in our freight trains for the last fiscal year, that I would like to offer.

Examiner Gutheim: This statement, Mr. Balderach, covers the general financial and operating statistics for the road for the fiscal year ending June 30, 1910?

Mr. Balderach: Yes, sir, the accounts are open for inspection.

Examiner Gutheim: You may file that as your Exhibit
6243 No. 3.

(The statement so offered and identified was received in evidence and thereupon marked "Balderach's Exhibit No. 3, received in evidence January 27, 1911", and is attached hereto.)

Mr. Balderach: The information concerning the number of cars on our trains from the statistical statement, shows that we have had 2.18 cars in each train, that is, as a statistical item, but the average

loaded freight cars in each freight train including mixed, is 2.18 cars.

Examiner Gutheim: Does that refer to the logging trains of the Dayton Lumber Company?

Mr. Balderach: No, sir, the logging trains of the Dayton Lumber Company do not enter into the statement now, that is, after this fiscal year. I would modify that statement by stating that from July 1, 1909, to December 31, 1909, the logs were hauled by our trains at a compensation of $5 per car covered by a special application made to the Railroad Commission of Texas. Subsequent to January 1, 1910 a contract was entered into between the Dayton Lumber Company and the Trinity Valley & Northern Railway Company, whereby the railway company was to receive a compensation of $1.50 per
6244 train mile. That contract was subsequently modified to a rate of a dollar per train mile, and the tonnage for the first six months of the fiscal year, ending June 30, 1910, is included in this exhibit as traffic movement for the fiscal year.

Examiner Gutheim: Can you say about how many cars per train the lumber company puts in logging trains?

Mr. Balderach: About nine.

Examiner Gutheim: And they would run about how many feet per car?

Examiner Balderach: I could not state as to the number of feet in each car.

Examiner Gutheim: Would these cars average about 3,000 feet?

Mr. Balderach: I could not answer that question because I don't know anything about the density of the load on those logging cars.

Examiner Burchmore: Characteristic logging cars, are they?

Mr. Balderach: Yes, sir, skeleton cars.

Examiner Gutheim: About how many miles would they pay that one dollar per train mile on the average?

Mr. Balderach: They operate four trains a day now.
6245 They run about 72, 76 or 78 miles.

Examiner Burchmore: Per day or per train?

Mr. Balderach: Per day, four trains per day; the mileage of the road is only 18 miles.

Examiner Gutheim: Do they pay a dollar per train mile on empties out as well as loads brought in?

Mr. Balderach: Yes, sir, all trains operated by the lumber company, the lumber company pay a dollar per train mile.

Examiner Gutheim: So bringing in two trains a day, with eight or nine cars each, would be about eighteen loaded cars a day?

Mr. Balderach: Yes, sir.

Examiner Gutheim: For which they would pay, if they traveled out fourteen miles, $56.00?

Mr. Balderach: If they traveled fourteen miles, yes, sir.

Examiner Gutheim: Are they traveling more or less than fourteen miles now?

Mr. Balderach: The last month that I have a bill against the Dayton Lumber Company shows that they operated about seventy-two miles a day.

Examiner Gutheim: Seventy-two miles?

Mr. Balderach: Yes, sir.

6246 Examiner Gutheim: So they would be paying about four dollars per car?

Mr. Balderach: Approximately.

Examiner Gutheim: Does that contract with the Dayton Lumber Company require the approval of the Texas Railroad Commission?

Mr. Balderach: I think it does.

Examiner Gutheim: Was it approved?

Mr. Balderach: Now, the contract was drawn up by Mr. Fouts, the former president of the company, and since that time there has been a change of officers, and I don't know whether that contract has been approved by the Commission or not. However, if you wish to be further informed in connection with that contract, I will try to make an investigation and advise you as to the facts.

Examiner Gutheim: I ask because I desire to know whether the State of Texas' special rate of $5.00 per car would be superseded by this contract without any comment from the Commission.

Mr. Balderach: As I said before, I don't know whether that matter has been taken up with the Commission or not. I am not in a position to answer. It may be, our former president took that

6247 matter up with the Commission and it probably authorized him to execute the contract. However, I will state that from the latest report of the Commission, it is shown that we have such a contract in effect with the Dayton Lumber Company.

Examiner Gutheim: That is a fact. Is it likely that the Dayton Lumber Company will log in any more to the mill at Ladd than they do at the present time?

Mr. Balderach: Well, sometimes they do. There is a lot of cut-over land there you know. They make a contract with these loggers to bring in the timber close to the track. Some has been brought to the mill within a distance of three to five miles.

Examiner Gutheim: The point is that on this contract rate of a dollar per ton mile, if they are logging near by the road, it makes their rate a great deal lower, but if they are going to log out further, it will make their rate per car much higher.

Mr. Balderach: I understand that. The extension you see, north of Lumm to Lamb, Texas, will increase the mileage of our line twelve additional miles. That is, when we built our extension up in that territory, and they still operate under the same basis,

6248 the rates per car will increase a considerable proportion.

Examiner Gutheim: Now, do you have through rates from the mill at Ladd on foreign products by both the T. & N. O. and the Frisco line?

Mr. Balderach: Yes, sir.

Examiner Gutheim: And what divisions acrue to the Trinity Valley & Northern out of those through rates?

Mr. Balderach: Well, we have numerous division sheets on file, and all of them carry a different division. On some I will state that on traffic destined to points east of the Mississippi River, moving by the New Orleans gateway, in connection with the T. & N. O. Rail-

way, the Louisiana Western, the M. K. & T., and the I. C. and their connections, we get two cents out of the proportion up to New Orleans. The proportion to New Orleans is eight cents, and the lines beyond New Orleans get the balance of the through rate. Traffic destined to points west of the Missouri river, we get 20 per cent of the Sunset's proportionate rate up to their connections with the lines leading west to the Texas gateways, leading out of Shreveport, Sherman, Denison, Fort Worth and Dallas gateways.

Examiner Gutheim: Is there any provision in the divis-
6249 ional arrangement whereby the Sunset lines must first receive a minimum revenue before you get any?

Mr. Balderach: There is a division sheet on file to that effect, but I wish to state that the Trinity Valley & Northern Railway Company does not route any lumber via that gateway.

Examiner Burchmore: Will you give us your reason why they do not?

Mr. Balderach: Why, yes. We route the lumber to the best advantage of the Trinity Valley & Northern, to secure to it the greatest revenue for the service performed. The division sheets that I have mentioned, the Sunset line received a minimum of eight cents.

Examiner Gutheim: You don't route it where they get seven cents?

Mr. Balderach: I don't understand your question?

Examiner Gutheim: You don't route it where the Sunset line will get seven cents and you get nothing?

Mr. Balderach: The Sunset Line reserves a minimum of eight cents.

Examiner Gutheim: What divisions do you get on the
6250 Frisco?

Mr. Balderach: Why, we get 2½ cents per hundred pounds where the rates are equal, and when the rates are lower via the Florida gateway in connection with the Frisco lines than via the Texas gateway in connection with the Sunset lines, we receive one cent and a half per hundred pounds.

I might say further, that at one time, when I first became connected with the Trinity Valley & Northern Railway Company, that our rate was lower via the Florida gateway than via the Texas gateway in connection with the Frisco and Santa Fe lines, and the Trinity Valley & Northern was not getting any division at all, and when that division was taken up with the Frisco officials, we told them that we would not give them any business at all unless they allowed us a division for the service performed by the T. V. & N. Railway Company.

Examiner Gutheim: Do you get any higher divisions than three cents?

Mr. Balderach: Yes, sir, our maximum division is four cents per 100 pounds, and that is on intrastate traffic, and we receive that division from the Sunset Central lines on a gradual division basis. Where the rate is 18¾ cents per hundred pounds from point of shipment to destination, local points or competitive points on the
6251 Sunset Central lines, we are allowed 4 cents per 100. Where the through rate is under 18¾, and over 15, or 15 cents, we

receive 3½ cents a hundred pounds. Between 15 and 10 we receive 3 cents, and under 10 cents we receive 2½. We also have division sheets in effect via the Frisco gateway allowing us practically the same division on competitive business. On traffic destined beyond the Sunset Central lines we receive 20 per cent of their proportion up to their immediate connection.

Examiner Gutheim: Does the statement which you have submitted show about what the average division was received by the Trinity Valley & Northern for each of the lines?

Mr. Balderach: For each of the lines, no, sir; I have not prepared any statement.

Examiner Gutheim: Does it show the general average division?

Mr. Balderach: On lumber it is 2½ cents on the average.

Mr. Walter: To be exact, 2.59.

Mr. Balderach: 2.575 of a cent, to be exact.

Examiner Gutheim: The figure that you gave just now is the average division, that is the average per 100 pounds of all revenues from divisions received, is it?

6252 Mr. Balderach: On lumber only. I think I will let you look at my statement here and I can give you a better idea of what it covers. Average receipts per 100 pounds, lumber, 2.575 cents.

Examiner Gutheim: Do you have through rates inbound and outbound on commodities other than forest products?

Mr. Balderach: Yes, sir. I would further add that I have prepared interline accounts, reporting proportions to our connections.

Examiner Gutheim: Via both roads?

Mr. Balderach: No, not via both roads; via the Frisco. We have interline accounts and through billing arrangements.

Examiner Gutheim: Do you have through rates via both roads?

Mr. Balderach: Yes, sir, we have through rates. Business originating on the Sunset Central lines and their connections, is handled on a transfer at Dayton and rebilled by our joint agent.

Examiner Gutheim: Will you give generally what divisions you receive on commodities other than forest products?

Mr. Balderach: On traffic originating in defined territory north of the Ohio River, the proportion up to the Mississippi river, we are allowed 12-½ per cent of the through rate. Traffic

6253 originating in seaboard territory, we take an arbitrary proportion up to New York, and we are entitled to our 12-½ per cent of the balance. That is on interstate shipments in less than carload lots. On carload shipments specific division sheets are issued, allowing our company various amounts. We get 3-½ cents per hundred pounds on carloads, and our minimum on less than carloads is 10 cents. On intrastate shipments, the divisions are based on revenue, using each line's local as a factor. That is, when the traffic originates on other than the Sunset Central lines or the Frisco lines. When the traffic originates on the Frisco lines, our division is based on the mileage arrangement. As the Sunset Central mileage increases our proportion decreases accordingly.

Examiner Gutheim: Now, are the divisions on lumber fixed on a milling in transit basis?

Mr. Balderach: No, sir, we have no milling in transit arrangement on our lines.

Examiner Gutheim: Well, on that haul that is performed by your company upon the product of the mill to the T. & N. O. is how much?

Mr. Balderach: The length of haul?

Examiner Gutheim: Yes.

Mr. Balderach: Approximately the haul is over three-
6254 quarters of a mile.

Examiner Gutheim: And that is always performed with the power of the Trinity Valley & Northern?

Mr. Balderach: Yes, exclusively.

Examiner Gutheim: The T. & N. O. power never goes on to your road at all?

Mr. Balderach: No, sir, the T. & N. O. does not operate on our tracks at all.

Examiner Gutheim: Likewise you haul approximately a distance of five miles to the Frisco.

Mr. Balderach: Yes, sir.

Examiner Gutheim: Now, does this statement of your financial and operating statistics for the year ending June 30, 1909, show the division of your tonnage and revenue?

Mr. Balderach: I wish to correct you there. That is for the fiscal year ending June 30, 1910.

Examiner Gutheim: I beg your pardon. Does it show the division of your tonnage and revenue, so that we can see what business is done for the Dayton Lumber Company and the revenue therefrom, and what business is done for the general public outside of the Dayton Lumber Company?

Mr. Balderach: Well, these financial statements and sta-
6255 tistical returns I have here for the fiscal year ending June 30, 1910 have not been segregated as between independent shippers and the Dayton Lumber Company. However, the statement shows for itself, and under the products of agriculture there is an item of corn, twenty-one tons that is an independent shipment. Under the products of the forest, ties, 4401 tons, wood, 1231 tons. stave bolts 2400 tons.

In manufactures we have, machinery 24 tons, ice 205 tons.

We have merchandise 604 tons, emigrant outfits, 10 tons.

A proportion of the merchandise is hauled for the Dayton Lumber Company, but it is such a small amount I don't think it would be of any value to have it in the report.

Examiner Gutheim: It is approximately correct to say that the items which you have mentioned are all the items that were handled for the general public?

Mr. Balderach: Approximately speaking. I have not prepared an exact statement from the waybills, because it entailed a good deal of clerical work, and I did not have the time to do it. I am the only one who handles the affairs of the railroad company, and

when I file my monthly reports with the Interstate Commerce Commission and the Railroad Commission of Texas, I think I have done a good month's work.

6256 Examiner Burchmore: It looks that way.

Mr. Balderach: I have. What was that, Mr. Examiner?

Examiner Burchmore: The figures you read, Mr. Balderach, seem to foot up 10 per cent of the total.

Mr. Balderach: On what stuff?

Examiner Burchmore: Outside.

Mr. Balderach: I have a little pencil memorandum here that I have prepared from my returns for the four months of the present fiscal year, which seems to indicate that the outside tonnage is approximately 29.72 per cent.

Examiner Burchmore: That is quite an increase in proportion. How do you explain it?

Mr. Balderach: It would be explained by the reason that the present fiscal year the log tonnage does not enter into our traffic statement. You will notice the log tonnage is 32,085 tons, or 51.33 per cent. If you eliminate the log tonnage the percentage of the other items would be much greater than it was.

Examiner Gutheim: Why do you eliminate the log tonnage?

Mr. Balderach: The log tonnage is now handled exclusively by the T. & N. O. Railway Company locomotives under trackage arrangement.

6257 Examiner Gutheim: Well, if you let that appear in evidence it will explain the difference.

Mr. Balderach: For the previous year.

Examiner Burchmore: Does the present report give those figures?

Mr. Balderach: Yes, that is the percentage of revenue of each item to the total amount of revenue.

Examiner Burchmore: Less than 20 per cent of the revenue last year was derived from outside operation.

Mr. Balderach: Of course if you take the percentage based on this statement here, you see this revenue from the log tonnage is 42 per cent, and if you eliminate that it makes the difference.

Examiner Burchmore: How about the percentage of revenue this year?

Mr. Balderach: The percentage of revenue this year is 28.52 per cent. I wish to state in connection with this exhibit here that I just prepared it from my returns on those four months' statements.

Examiner Burchmore: You think as an accountant that these figures you have given us are sufficiently accurate for——

Mr. Balderach: I think they are all right.

6258 Examiner Burchmore: The percentage of error would be very small?

Mr. Balderach: Very small.

Examiner Gutheim: Taking the revenues on the one item of logs including four months this year, how does it compare with the total of twelve months the previous year?

Mr. Balderach: I have not made any comparison of our revenue —Why, yes, I could give it to you. I am not able to give you that information, but I will state that the revenue from the log service was approximately $3,000 a month, and our revenue from the operations of the joint track with the Dayton Lumber Company is, for the four months ended October 31st, $3,739. There has been considerable decrease, however. The last bill I made against the lumber company for trackage aggregated, I think, about $1,500 for the month of November.

Examiner Gutheim: Referring to your statement for the period, July 1, 1910 to October 31, 1910, it should be—It reads 1911——

Mr. Balderach: It must be a typographical error.

Examiner Gutheim: What item in your revenue account covers the amount received from the Dayton Lumber Company for
6259 trackage at $1.00 per mile?

Mr. Balderach: That comes under revenue from transportation. You will find it right down below.

Examiner Gutheim: You will submit this four months' statement, also that statement of the fiscal and financial operations for the previous year?

Mr. Balderach: Yes, sir.

Examiner Gutheim: It may be filed as an exhibit.

(The statement so offered and identified was received in evidence and thereupon marked "Balderach Exhibit No. 4, received in evidence January 27, 1911", and is attached hereto.)

Examiner Gutheim: Now, who does the log spur work of the Dayton Lumber Company?

Mr. Balderach: The Dayton Lumber Company do their own work.

Examiner Gutheim: Who does the construction work?

Mr. Balderach: Sometimes, when they might be short-handed, we will run our section men over on their spur work and put our section foreman's report of the number of days engaged in that class of service—we bill on the Dayton Lumber Company for that amount of time and also probably of roadmaster's time
6260 for supervision.

Examiner Gutheim: Then where the men handle the traffic, including the use of the Trinity Valley & Northern power and equipment on the logging spurs here, does the Dayton Lumber Company operate its own railroad?

Mr. Balderach: The Dayton Lumber Company operate its own locomotives.

Examiner Gutheim: On the logging spurs?

Mr. Balderach: On the logging spurs.

Examiner Gutheim: In fact, does all of the log spur work at its own expense?

Mr. Balderach: At its own expense. In connection with that exhibit of operation—you might call it a general statistical statement—in that statement of July 1, 1910 to October 31, 1910, the total tonnage handled for the Dayton Lumber Company is 5,638 tons, 70.28 per cent. The tons we have hauled are 9,843, or 32.36

per cent. Revenue, $3,054.08, or 71.48 per cent. Tonnage for the independent shippers is 2,385 tons, or 29.72 per cent. The ton mileage is 20,572 tons, or 67.64 per cent. The revenue is $1,218.66, or 28.52 per cent. Now, these figures there would indicate that our general mileage is greater for independent traffic than
6261 it is for the Dayton Lumber Company. In other words, we perform a greater transportation service for the independent shippers than we do for the Dayton Lumber Company, and we are serving territory not heretofore reached by rail transportation. This tonnage of staves, wood, etc., is products that are being secured from independent land owners, and I might further add that if our charter should be revoked by the state, that there is a considerable lot of timber up there that could not be shipped out only by the Dayton Lumber Company, and if they wanted to ship that out the Dayton Lumber Company would inform them that they are not a common carrier.

Examiner Gutheim: Mr. Balderach, do you file statements similar to these, periodically from month to month?

Mr. Balderach: No, not from month to month. I prepared that memorandum for my own information.

Examiner Gutheim: Are they sent to the head office of the company?

Mr. Balderach: Our president, our former president, is located there, and I show them to him to show him what we are doing.

Examiner Gutheim: No reports of this nature are given to
6262 Mr. Fullerton, are they?

Mr. Balderach: They are available, and if Mr. Fullerton wants to examine it I will be glad to give it to him.

Examiner Gutheim: Do you make an annual report or a monthly report to the Interstate Commerce Commission?

Mr. Balderach: I think they are on file, yes, sir. I have had correspondence in regard to the annual reports afterwards, had a statement from Mr. Burley.

Examiner Burchmore: If you made the annual report, what does the correspondence relate to?

Mr. Balderach: One or two items there, in the preparation of my annual report I failed to make returns on a certain page. We had an increase in the bonded indebtedness under the physical charges, which is a very important question to be answered. In a hurry I omit things, and it was not our intention to do so, and he directed my attention to it, and also,—I don't know whether I have mentioned the fact in this record or not about the discrepancy which I was telling you about in the tonnage of the coal consumed by the locomotives.

Examiner Burchmore: The Commission has a rule about that.

Mr. Balderach: I don't know what they want in that case.
6263 I did not answer that letter. I addressed a letter to the Commission.

Examiner Burchmore: That is not a matter that is of any legal consequence.

Cross-examination:

Mr. Walter: Mr. Balderach, has the Trinity Valley & Northern Railway Company ever had occasion to condemn property?

Mr. Balderach: Yes, sir, we had several condemnation suits, in fact, the award of the condemnation court was carried to the County court, tried by a jury there, and the complainants have appealed the case to the court of civil appeals.

Mr. Walter: Who was that man who appealed?

Mr. Balderach: The condemnation proceedings were originally against a Mrs. Hood, and unknown heirs, and the condemnation commission awarded something like $33 or $40—I think it was about thirty-three and some odd dollars, and later on Mr. Chapman came in and filed objections to the condemnation award.

Mr. Walter: Who is this Mr. Chapman?

Mr. Balderach: Mr. Chapman, from the best information I can obtain, is holding a lot of land in trust for the Kirby Lumber Company.

6264 Mr. Walter: What are his initials? J. R.?

Mr. Balderach: I think it is J. R. Chapman.

Examiner Gutheim: And he made the contention that you were not a common carrier?

Mr. Balderach: He made the contention that we were not a common carrier, and he further stated that he had an interest in that land that was condemned, he was the owner of the timber, and the condemnation commission in making the award failed to segregate the amount of the award, and he did not know whether it was all to be paid to J. R. Chapman, or whether it was all to be paid to Mrs. Hood or the unknown heirs. A jury in the county court at Liberty tried the case, and they increased the allowance to about forty some odd dollars, and they segregated the award between the Chapman interest and the Hood interest.

Mr. Walter: Did the court decide that you were a common carrier?

Mr. Balderach: They found that we were a bona fide common carrier entitled to exercise the power of eminent domain.

Mr. Walter: Has that been decided by the Appellate Court yet?

6265 Mr. Balderach: Not that I know of. Briefs have been filed, and I think a decision will probably be rendered within the next thirty days, if it has not already been passed upon.

Mr. Walter: Has the railroad Commission of Texas had before it the status of your road?

Mr. Balderach: Why, yes, sir.

Mr. Walter: Did they make any formal notice to you by way of letter or otherwise?

Mr. Balderach: Yes, we have a letter here addressed—from the Railroad Commission of Texas addressed to Mr. L. Fouts, our former president of the Trinity Valley & Northern Railway Company, signed by Mr. E. R. McLean, secretary, which I will read into the record.

(Mr. Balderach here read the letter referred to, which is in the words and figures following, to-wit:)

"Railroad Commission of Texas.

"AUSTIN, June 10, 1909.

"Mr. L. Fouts, President Trinity Valley & Northern Ry., Dayton, Texas.

"DEAR SIR: In connection with your application of April
6266 15, 1909, for recognition at the hands of the Commission, as common carrier, I quote the following opinion of Commissioner Williams, which opinion is concurred in by Commissioner Colquitt, and is therefore, the action of a majority of the Commission on this case:

"'The Railroad Commission is given no authority to determine when railroad companies are common carriers. On the contrary, the law itself fixes the status of such companies, and does this absolutely and without reference to the judgment or opinion of the Commission. Every railroad company organized under the laws of Texas has the right to construct and operate a railroad and all railroads are declared to be public highways and all railroad companies common carriers.

"'A railroad company having a Texas charter and owning a Texas line is a common carrier by force of the statute, and it is its duty to operate its road as a common carrier, complying with the laws of the State regulating such carriers, and obeying and conforming to the authorized rates, rules and regulations of the State Railroad Commission.

"'A declaration by the Commission has, in my opinion, no effect whatever upon the status of a railroad company.

6267 "'In company with Commissioner Colquitt, I inspected the road of the Trinity Valley & Northern Railway Company a few weeks ago, and found it in possession of and operating a railroad and apparently acting toward and transacting business with the public as a common carrier of freight and passengers, and since that time, I have, without taking any official action, expressed the belief, and now believe, that the company is a common carrier by rail in Texas and bound by all the statutes of the State on that subject. That the present traffic consists largely of the products of the forests tributary to its line, and that its traffic and revenues will apparently be injuriously diminished when these forests shall have been cut away, does not seem to me to be material. The Railroad Commission is given no power to limit the construction of railroads to territory which in its judgment will be perpetually profitable, or in any respect to control the location of such lines. Indeed, it requires only a moment's consideration to realize that limitations against the extension of transportation facilities into territories which promise, so far as we can see at this moment, only a temporary traffic would be unfortunate and injurious. To mention only a few of the many

products of a like nature which will occur to the minds of
6268 all, who is there that would contend against the construction of railroads to the coal and oil fields, and to the ore beds of this country? Yet all these yield temporarily only, but will anyone contend that they are for this reason alone to be denied transportation and kept out of use?

" 'It seems to me that these considerations are irrelevant and that when a duly organized railroad company comes to own a line of railroad, the Commission's jurisdiction attaches by virtue of the statutes forthwith and without action on the part of the Commission.

" 'I believe we are without legal authority to recognize a railroad company as a common carrier, except as such recognition may be incidental to an enforced division of rates or the performance of some other duty legally incumbent upon the Commission.

" 'But, if we are to make a practice of recognizing other companies, then I am unwilling to discriminate against the Trinity Valley & Northern by refusing its application.'

Yours truly,

E. R. McLEAN, *Secretary.*"

6269 Mr. Walter: Has the Railroad Commission of Texas made any orders relative to the construction or change of your line?

Mr. Balderach: Yes. At the time of our application for recognition as a common carrier, the Railroad Commission made an inspection of our line, and they recommended that a large curvature be eliminated, which necessitated the expenditure of approximately $2,500, in excess of the original estimate of the cost of the property abandoned, and we subsequently made an arrangement to have that curvature eliminated. A contract was given a contractor and he has been cutting through some hills there, and incidentally reducing the curvature. The excess over the original cost is now being carried right on our general balance sheet as property abandoned, chargeable to operating expenses under authority from the Railroad Commission, which is approved by Commissioner Harlan.

Examiner Gutheim: That is charged in the account all right.

Examiner Burchmore: What was that?

Mr. Balderach: I said the excess—rather, not the excess, but the excess cost of constructing this, or in other words, eliminating this large curvature—what I mean by excess is the cost of the abandoned property over this original construction is being car-
6270 ried on the balance sheet of the Trinity Valley & Northern Railroad Company in the account caption, "Property Abandoned, Chargeable to Operating Expenses," which is carried under authority from the Interstate Commerce Commission in the form of a letter approved by Commissioner Harlan, and Mr. H. C. Adam personally.

Examiner Gutheim: Have you got that letter here?

Mr. Balderach: I think I have it here.

Mr. Walter: I have here various tables I want to offer in evidence.

(The tables so offered and identified were received in evidence and thereupon marked respectively "Balderach Exhibits Nos. 5 and 6, received in evidence January 27, 1911," and are attached hereto.)

Mr. Balderach: Here is the general balance sheet.

Mr. Walter: For what period?

Mr. Balderach: For the period ending October 31, 1910.

(The balance sheet so offered and identified was received in evidence and thereupon marked "Balderach Exhibit No. 7, received in evidence January 27, 1911," and is attached hereto.)

6271 Mr. Coleman: The through rates you mentioned, via New Orleans and the Illinois Central, they would use the Southern Pacific Lines?

Mr. Balderach: I don't know whether they would use the Southern Pacific. It moves in connection with the T. & N. O. Company, the Louisiana & Western, and the M. L. & T.

Mr. Coleman: Those are Southern Pacific lines?

Mr. Balderach: I don't know whether they are supposed to be called Southern Pacific. I don't know whether they are called the Southern Pacific lines in Texas. Of course, I don't know what interest might be held by the Southern Pacific Company.

Mr. Coleman: Via the T. & N. O. and the Louisiana and Texas is one of the lines going to New Orleans.

Mr. Balderach: Yes, sir, the Louisiana Western and the M. L. & T.

Mr. Coleman: Would that finally be moved up north of the Ohio River?

Mr. Balderach: The cars would move into Illinois, Michigan, Ohio, New York, Canada, some in Tennessee; that would not be north of the Ohio, though.

6272 Mr. Coleman: Those markets would all be available via the Frisco Route and Cairo, would they not?

Mr. Balderach: Yes, sir, but it is reasonable to presume just as sure as night follows day, that it is more economical to haul a carload of lumber loaded upon a car and receive 72 cents a hundred pounds for it, than to haul a carload five miles and only receive 2½ cents, and incur in connection with the operation of that five miles a possible liability of an accident or a wreck.

Mr. Coleman: That is not what I had in mind, if you will just answer my question.

Mr. Balderach: You just stated that the routes were available.

Mr. Coleman: I would like to ask you what your division is in connection with the Frisco and Rock Island?

Mr. Balderach: We have a division of two and two and a half cents of the proportion south of the crossing.

Mr. Coleman: Cairo?

Mr. Balderach: Cairo, two and a half cents.

Mr. Coleman: How long have those divisions been in effect?

Mr. Balderach: I don't know, but several years.

Mr. Coleman: Do you know whether the Trinity Valley & Northern ever received higher divisions via the Cairo Route I mentioned?

6273 Mr. Balderach: The divisions via the Frisco never exceeded two and a half cents. As I explained it in the beginning, those were rates via the Frisco, by which, I mean the Florida-Texas gateway, and were as much as or equal to the rates via the Texas gateway in connection with the T. & N. O. and its connections.

The Frisco rate was 2½ cents per hundred pounds, and the rates were lower via the Florida-Texas gateway than via the other gateway.

Mr. Coleman: I asked you whether they were ever changed. Are you familiar——

Mr. Balderach: Yes, I am familiar with the divisions, and they have not been changed other than as I have stated it in the beginning. At one time we operated a service there for which we received no division whatever, no compensation.

Mr. Coleman: Are you familiar with the testimony in the Chicago Lumber & Coal Company case?

Mr. Balderach: No, I have not read it.

Mr. Coleman: Were you with the Trinity Valley & Northern at the time that that case was heard?

Mr. Balderach: Yes, I think I was; yes, I was with the Trinity Valley & Northern at the time I think this decision was

6274 rendered, in December, 1909, wasn't it?

Mr. Coleman: Were you with them when the testimony was taken?

Mr. Balderach: I don't know when the testimony was taken in the Chicago Coal & Lumber Company case.

Mr. Coleman: This Chicago Coal & Lumber Company case testimony was heard in St. Louis and New Orleans.

Mr. Balderach: No, I don't know anything about it.

Mr. Coleman: Were you connected with the company at that time?

Mr. Balderach: When was the testimony taken, then I can answer your question.

Examiner Burchmore: December, 1908, taken in New Orleans.

Mr. Balderach: Then I was not. I entered the service of the Trinity Valley & Northern Railway in the capacity of auditor, on June 15, 1909.

Mr. Coleman: Did you ever have occasion to look up divisions prior to the time that you engaged your services with the Trinity Valley?

Mr. Balderach: Yes, sir, I checked over the inter-line accounts and made discrepancy statements, and in checking over our tissue copies of billings it was ascertained that a considerable

6275 number of way-bills had been forwarded covering shipments of lumber on which the T. V. & N. Railway was receiving no

returns. Now, I did not go back and investigate all of the divisions, but in checking over the billing and inter-line accounts, it was ascertained that a good number of waybills had been forwarded covering shipments of lumber on which the Trinity Valley & Northern Railway Company was entitled to two and a half cents, on which their line had never reported any revenue.

Examiner Burchmore: Will you examine your record and see whether you received anything out of that two and a half cents?

Mr. Balderach: Yes, sir; I have a copy of the interline accounts. They take up the way bill and report the revenue to the T. V. & N. Railway inter-line account, and I will examine those, and if we received a greater proportion than two and a half cents, I will be glad to inform the commission.

Mr. Walter: I think that is better than taking Mr. Coleman's memory.

Mr. Coleman: Do you understand, Mr. Walter, that the Rock Island Road may have given wrong divisions?

Mr. Walter: Sure. I should not be at all surprised.

6276 Mr. Balderach: If the Rock Island-Frisco lines gave us four cents per hundred they would get considerably more of our traffic. They will cut down my wages unless I get more business.

Mr. Coleman: You made mention of a contemplated extension of your line in connection with the Santa Fe.

Mr. Balderach: Yes, sir.

Mr. Coleman: Do you have serious intentions of connecting with the Santa Fe?

Mr. Balderach: Yes, sir, we have serious intentions. We don't know whether we will accept the survey to Lamb, or whether we will change the survey and go to Cleveland and connect with the H. E. & W. and the Santa Fe at Cleveland.

Mr. Coleman: Does the lumber company that is affiliated with your railroad have any timber adjacent to the Santa Fe?

Mr. Balderach: I don't know what the holdings of the lumber company are. Just as I stated in the beginning, I am a railroad employe, and I do not know what the holdings of the lumber company are and I am not interested in any way whatever in the operation of the lumber company, while I would like to see them be successful, that is all.

Mr. Coleman: Do you know what it is that is prompting your people to build to a connection with the Santa Fe?

6277 Mr. Balderach: I presume it is the same interest that prompted the people who held that land to try to prevent the Trinity Valley & Northern Railway from exercising the power of eminent domain. One of the attorneys of Mr. Chapman stated that the country through which the Trinity Valley Railway ran was very sparsely settled and of no value at all, but when it came to taking the Chapman property, it became very valuable all of a sudden.

Mr. Coleman: Through how many miles of country that has no timber would this land be extended?

Mr. Balderach: I am not sufficiently informed to tell you that, but if you would like——

Mr. Coleman: Approximately.

Mr. Balderach: But if you want any information of that fact I can consult our chief engineer there, and he can probably give it.

Mr. Coleman: You seem to have an idea in your mind that you people want to build up and connect with the Santa Fe because the Chapman interests are opposed to your connecting with them.

Mr. Balderach: No, not exactly. We have a large amount of investment down there.

6278 Mr. Coleman: There is nothing on that line that you would secure except wood, is there?

Mr. Balderach: There is cotton, grain and agricultural products.

Mr. Coleman: Are they moving now?

Mr. Balderach: They move over the Santa Fe Railway Company, and some of it goes to the Frisco sometimes.

Mr. Coleman: I am talking about connecting with the Santa Fe.

Mr. Balderach: We intend to connect with the Santa Fe.

Mr. Coleman: What is your purpose in connecting with the Santa Fe?

Mr. Balderach: We might be able to get some sort of a traffic arrangement out of it.

Mr. Coleman: Out of the Santa Fe?

Mr. Balderach: Yes, you never can tell.

Mr. Coleman: Have you received any encouragement from the Santa Fe?

Mr. Balderach: We don't necessarily have to wait for encouragement. We can carry on our construction, and when we see fit we might connect with the Cotton Belt. The Cotton Belt might

6279 probably want a deep water outlet there at that point, too.

Mr. Coleman: At Corsicana?

Mr. Balderach: Well, I don't know.

Mr. Coleman: A deep waterway outlet?

Mr. Balderach: We intend going down to deep water there. I presume you have read a great deal about this waterway they are going to have at the Mississippi. If we connect with the Cotton Belt we might extend further south and go even down to deep water.

Mr. Coleman: That is all that you have got tangible to——

Mr. Balderach: We have something tangible. We have considerable tonnage down there——

Mr. Coleman: I don't want to prevent you from making a statement; I only want to try to find out whether there was anything tangible that prompted you to connect with the Santa Fe, and unless you want to make a statement of your own, I don't want to encumber the record with any other information.

Mr. Balderach: I am trying to enlighten you to the best of my knowledge.

Mr. Coleman: That is all right.

Mr. Balderach: If I can.

6280 Mr. Walter: Can you tell me whether you have known of any encouragement by the Santa Fe or the Santa Fe inter-

ests to the building of any other railroads into that territory?

Mr. Balderach: Why, not that I have any recollection of, but it seems by the tariff that has been in effect that they have evidently encouraged some line. They have published through rates from certain lines in the past.

Mr. Walter: Do you refer to that tariff? (Indicating.)

Mr. Balderach: Yes.

Mr. Walter: I think we will offer that in evidence, as Exhibit 8 of this witness' testimony.

(The tariff so offered and identified was received in evidence and thereupon marked "Balderach's Exhibit No. 8, received in evidence January 27, 1911," and is attached hereto.)

Mr. Balderach: I will say that this is strictly an intrastate tariff and is not to be used for any purposes in arriving at through rates.

Mr. Coleman: You say it is an intrastate tariff?

Mr. Balderach: Yes, sir, intrastate tariff, railroad Commission of Texas tariff. It is Supplement No. 15, Railroad Commission of Texas Tariff, numbers 5*b*, 19*a*, 23*a*, and 30*a*.

6281 Mr. Coleman: Isn't it your understanding that the Commission prescribes through rates and compels the carrier to accept those rates with the connections that they indicate on intrastate business?

Mr. Balderach: Yes, sir, that is my understanding, but I had reference to interstate tariffs. I wish to state that the several lines here have milling in transit privileges.

Examiner Burchmore: Just mention those lines, the originating lines, certain ones there.

Mr. Balderach: Here is one over the Orange & Northwestern extending milling in transit privileges to Miller's Lake Lumber Company on very advantageous terms.

Mr. Coleman: If you admit that the Commission can prescribe the application of joint rates within the State of Texas in connection with the Santa Fe as well as any other road, wherein do we become responsible for the rates?

Examiner Burchmore: This tariff will speak for itself.

Mr. Coleman: It is well understood we are carrying as low as any other line.

Mr. Balderach: I wish to state in connection with your inquiry, that if it was not for the request of the Commission, these so-called short lines would not receive any division from the Santa

6282 Fe connections, because every time we forward a shipment to a local point on the Santa Fe we have got to make application for a billing order to determine the divisions. They are not published in the divisions with the side lines at all.

Mr. Coleman: If I am correctly informed, the Texas Commission can make operative through rates, intrastate from points on the Santa Fe with any line that they have recognized as a Texas common carrier, as well as with any other railroad. Now, having recognized your road as a common carrier, wouldn't we be compelled to carry through rates with you?

Mr. Balderach: Yes, sir, on intrastate shipments you would, but on interstate shipments it might be said that through rates for local points on the Santa Fe are not effective from side line connections, there is a differential of five cents over the trunk line rates.

Examiner Burchmore: I think that is clear.

Mr. Coleman: Mr. Balderach, the question that you have raised here was threshed out in the Chicago Lumber & Coal Case and in the Star Grain case.

Mr. Walter: It is going to be threshed out some more.

6283 Mr. Coleman: Let me ask you just one more question. What mill is on that line that you referred to?

Mr. Balderach: I think it is the Kirby Lumber Company's mill.

Examiner Burchmore: One of the intervenors in this case.

Mr. Coleman: The lumber company; the Kirby Lumber Company has no mill there.

Examiner Gutheim: Let me ask you, I want this matter understood——

Mr. Balderach: I understand that the Kirby Lumber Company is very deeply interested in the operation of that road, that they have large holdings there.

Examiner Gutheim: What mill do they have there?

Mr. Balderach: I cannot just name the mill. I know that the Kirby Lumber Company purchased the railroad. They also have quarries in connection with the line there—if I am not mistaken, there is a mill located there in which the Kirby Lumber Company is very deeply interested. I do not recall the name right now.

Examiner Gutheim: Do you mean J. H. Kirby or the Kirby Lumber Company?

Mr. Balderach: John H. Kirby and the Kirby Lumber

6284 Company.

Examiner Gutheim: Both?

Mr. Balderach: I think so.

Mr. Walter: Anything further you want to say?

Mr. Balderach: Not unless the Commission wishes further information.

Whereupon, at 10:30 P. M., an adjournment was taken until Saturday, January 28, 1911, at 9 o'clock A. M.

6285 ST. LOUIS, MISSOURI,

SATURDAY, *January* 28, 1911—9:00 o'clock a. m.

The Commission met pursuant to adjournment.

Present as before.

Louisiana Central Railroad Company.

W. Q. CHURCH was called as a witness, and having been duly sworn, testified as follows:

Direct examination:

Examiner Burchmore: State your name to the stenographer, please.

Mr. Church: W. Q. Church.

Examiner Burchmore: What is your connection with the Louisiana Central Railroad Company, Mr. Church?

Mr. Church: Traffic Manager.

Examiner Burchmore: Your railroad connects with the Gulf, Colorado & Santa Fe Railway?

Mr. Church: Yes, sir, at Cravens, Louisiana.

Examiner Burchmore: With any other railroad at Cravens?

Mr. Church: With the Lake Charles & Northern at Cravens.

6286 Examiner Burchmore: And connects with the Kansas City Southern at Pickering and Barham?

Mr. Church: Pickering and Barham.

Examiner Burchmore: What is the length of the line?

Mr. Church: The main line is recorded 32.96, with branches of 9.65, a total of 42.61 miles.

Examiner Burchmore: Do you include a statement of any trackage rights?

Mr. Church: We have no trackage rights at all.

Examiner Burchmore: Do you include joint tracks, jointly operated or jointly owned?

Mr. Church: Not at the present time.

Examiner Burchmore: Then I assume you have no trackage rights or joint trackage?

Mr. Church: No, none at the present time. We did have a couple of years ago, but the situation has been changed.

Examiner Burchmore: When was the Louisiana Central Railroad incorporated?

Mr. Church: June 9, 1904.

Examiner Burchmore: Under the code?

Mr. Church: Under the laws of Louisiana.

Examiner Burchmore: What was the capitalization?

6287 Mr. Church: $250,000.00.

Examiner Burchmore: Was that all?

Mr. Church: I think so.

Examiner Burchmore: Do you know what the consideration received for it was?

Mr. Church: I think it was to take up advances made by the Pickering interests to construct the line.

Examiner Burchmore: When the railroad company was incorporated there was already a railroad in existence which it took over?

Mr. Church: Part of this present line only, not all of it.

Examiner Burchmore: There was some railroad?

Mr. Church: Yes, sir, there was some.

Examiner Burchmore: What was that mileage they took over?

Mr. Church: I think about half of this mileage reported.

Examiner Burchmore: That would be about twenty miles?

Mr. Church: Something in that neighborhood, yes, sir.

Examiner Burchmore: Were any bonds issued at the time?

Mr. Church: No, no bonds at all.

Examiner Burchmore: Are there any bonds now?
Mr. Church: No, sir.

Examiner Burchmore: In what part of the State of Louisi-
6288 ana is the railroad?

Mr. Church: Southwest Louisiana.

Examiner Burchmore: That is the long leaf section?
Mr. Church: In the long leaf section, yes, sir.
Examiner Burchmore: Where are the mills of the W. R. Pickering Lumber Company situated with reference to this line?
Mr. Church: There is one mill at Barham at the end of that division and one mill at Pickering, and another at Cravens.
Examiner Burchmore: The railroad is not one direct through line?
Mr. Church: No, it is in two sections, one leading west of Barham, Louisiana, about 9½ miles.
Examiner Burchmore: And extending to what point?
Mr. Church: A point called Bayou Toro.
Examiner Burchmore: What is the mileage of that division, do you remember?
Mr. Church: It is 9½ about. I don't know the exact mileage.
Examiner Burchmore: And the mill on that division—that division is known as the Southern Division?
Mr. Church: No, Northern.

Examiner Burchmore: Northern Division?
6289 Mr. Church: Northern Division.

Examiner Burchmore: The mill on that division is how far from the track?
Mr. Church: It is right at Barham.
Examiner Burchmore: It is directly on the rails of the Kansas City Southern?
Mr. Church: Yes, sir.
Examiner Burchmore: The other division of the railroad known as the Southern Division——
Mr. Church: Yes, sir.
Examiner Burchmore: —extends from Pickering to Cravens?
Mr. Church: Pickering to Cravens, and a little ways beyond that.
Examiner Burchmore: Where are the mills on that division located?
Mr. Church: There is one mill at Pickering and another at Cravens.
Examiner Burchmore: How far is Pickering from Cravens?
Mr. Church: It is 19 miles and a fraction. We call it approximately 20 miles.
Examiner Burchmore: How far from the rails of the Santa Fe at Cravens is the mill there located?
6290 Mr. Church: I should say about half a mile. The Santa Fe does not reach the mill, however, at Cravens with any of their rails.
Examiner Burchmore: Do the two railroads have a connection at Cravens, I mean the Louisiana Central and the Santa Fe?

Mr. Church: Yes, sir.

Examiner Burchmore: Do they interchange any traffic?

Mr. Church: They interchange traffic about a mile and a half west of Cravens station.

Examiner Burchmore: How far from the Lake Charles & Northern rails is the mill at Cravens?

Mr. Church: The Lake Charles & Northern and the Santa Fe operate jointly at that point over the same tracks.

Examiner Burchmore: Are there any other sawmills or lumbering or other similar enterprises on the line of this railroad?

Mr. Church: Nothing, but on the Barham Division there are some small operators or stave men who are getting out occasional cars of stave bolts, I believe they call them.

Examiner Burchmore: But no other mills?

Mr. Church: No other mills, no, sir.

Examiner Burchmore: Now, discussing for a few minutes
6291 the Northern Division extending from Barham to Bayou Toro, when was the mill at Barham built?

Mr. Church: I think in 1902, or at least that is the time the Pickering people got interested in the property. It may have been built before then, but not very long.

Examiner Burchmore: The Pickering Lumber Company was interested in that mill in 1902?

Mr. Church: Yes, sir.

Examiner Burchmore: Was there any railroad there at that time?

Mr. Church: Yes, sir.

Examiner Burchmore: What was the character of that road and its length and what purpose did it serve?

Mr. Church: It served to bring in cars to the mill. It runs over a very rough country, and it is a country road that is built for logging.

Examiner Burchmore: Do you know what the mileage was?

Mr. Church: No, I don't know.

Examiner Burchmore: Standard or narrow guage?

Mr. Church: Narrow gauge.

Examiner Burchmore: I suppose the Pickering people operated this mill and the logging road from 1902 up to 1904 when
6292 the railroad was incorporated?

Mr. Church: Yes, sir.

Examiner Burchmore: What was the purpose of incorporating then?

Mr. Church: I presume to comply with the decision in the Central Yellow Pine case.

Examiner Burchmore: Had it been receiving any divisions out of joint rates previous to that time?

Mr. Church: That is before my connection with it, I don't know.

Examiner Burchmore: Have you any idea?

Mr. Church: I believe they were, although I would not state positively.

Examiner Burchmore: When the railroad was incorporated in

1904 and took over these rails that were then in place, did those rails, or has the railroad then in place, remained there?

Mr. Church: I think so.

Examiner Burchmore: They have not moved the road?

Mr. Church: No, not that end of it.

Examiner Burchmore: There have been, however, extensions of it?

Mr. Church: Not so far as the railroad is concerned. The
6293 lumber company have extended beyond there by their logging operations.

Examiner Burchmore: I will ask you with respect to the Southern Division which, as I understand it, extends from Pickering to Cravens?

Mr. Church: Yes.

Examiner Burchmore: When did the Pickering Lumber Company become interested down there?

Mr. Church: They have been at Pickering since 1897, I think, or 1898.

Examiner Burchmore: Was there any mill there before they went in there?

Mr. Church: No, sir.

Examiner Burchmore: When was the first railroad put into operation from Pickering and Cravens?

Mr. Church: The line was started about five years ago, that is the time that this Cravens mill was built. This present line was, however, not completed until 1907.

Examiner Burchmore: There wasn't any mill there?

Mr. Church: Not at Cravens until about five years ago. There was at Pickering.

Examiner Burchmore: When was the mill at Pickering put up?

6294 Mr. Church: That was put up twelve or thirteen years ago.

Examiner Burchmore: Was there any logging road connecting with the mill at Pickering?

Mr. Church: Yes, sir.

Examiner Burchmore: When was that put in?

Mr. Church: I think about the time the mill was constructed. However, it was before my connection with the company and I am not very familiar with its history.

Examiner Burchmore: When was the mill at Cravens built?

Mr. Church: About five years ago.

Examiner Burchmore: And they put in the logging road there at the same time?

Mr. Church: Well this line between Pickering and Cravens was afterwards constructed, but at the time the Cravens mill was built, the Missouri & Louisiana operated a line east of Neame. Neame is three miles south of Pickering, and they had an arrangement, that is, the Louisiana Central or the Pickering people with the Missouri & Louisiana to extend this Neame line into Cravens, and all the material for the construction of that mill was hauled over this line,

and after the completion of the mill and before the construction of the line between Pickering and Cravens, the line was used to market the output of the mill and take inbound freight.

6295 Examiner Burchmore: Inbound freight of what character?

Mr. Church: For the construction of the mill. You understand prior to five or six years ago there was no mill there at Cravens, and this track I speak of was just to take all the construction material out there.

Examiner Burchmore: Then with the incorporation of the railroad in 1904——

Mr. Church: 1904, yes.

Examiner Burchmore: That railroad incorporation took over certain logging and other tracts at Barham and at Pickering and at Cravens?

Mr. Church: Well Cravens was not in existence at that time.

Examiner Burchmore: But when the Cravens tracks had been constructed by the lumber company, they were turned over to the railroad?

Mr. Church: They were partly constructed by the railroad company and partly by the lumber company, and afterwards all turned over to the railroad company. I do not know what section, but that was the arrangement.

Examiner Burchmore: Your total mileage at present is how much?

6296 Mr. Church: 42.61.

Examiner Burchmore: How much has that cost?

Mr. Church: The total cost of the railroad up to June 30, was $411,683.66.

Examiner Burchmore: And your total capital stock at present is how much?

Mr. Church: $250,000.00.

Examiner Burchmore: How has the rest of the cost of the road been financed?

Mr. Church: The difference between the capital stock?

Examiner Burchmore: Yes.

Mr. Church: Why there has been something written off each year. I don't know exactly to what extent.

Examiner Burchmore: Was the money advanced by the Pickering Lumber Company to build the road?

Mr. Church: I imagine it was in the first instance.

Examiner Burchmore: And notes were taken. There weren't any bonds or anything of that kind?

Mr. Church: No—now I presume it was notes, I think it was notes.

Examiner Gutheim: There were, as a matter of fact, Mr. Examiner. I made an examination of this property and there was

6297 seven notes due the W. R. Pickering Lumber Company for about $75,000.00, originally $79,000.00, but it has been paid in part.

Examiner Burchmore: $250,000.00 and $79,000.00 makes only $330,000.00.

Mr. Church: They charge back for depreciation each year a certain amount. I don't know, but whatever the Commission's requirements are, is charged off.

Examiner Burchmore: But the road as a whole has not actually cost $450,000.00 in construction?

Mr. Church: In construction, yes. When the road was purchased by the Louisiana Central, they had an appraisement made of the property by the firm of Coates & Burchard, public appraisers, and the property was taken over on their appraisal, less some amount. I don't know exactly what the amount was.

Examiner Burchmore: The railroad paid less than the amount at which the road was appraised by this firm?

Mr. Church: There was some discrepancy between it. I don't know what it was, it was a less amount, yes.

Examiner Burchmore: It was a less amount?

Mr. Church: Yes.

Examiner Burchmore: I will ask you whether it is or is
6298 not a fact that the stockholders of the W. R. Pickering Lumber Company own practically the entire capital stock of this railroad?

Mr. Church: I think so. The ownership is practically the same although not identical.

Examiner Burchmore: Do you wish to explain the differences in the ownership?

Mr. Church: I am not familiar with the lumber company. I can give you a list of stockholders in the railroad company.

Examiner Burchmore: Have you that list typewritten?

Mr. Church: Yes, I have it on this sheet.

(Witness produces paper.)

Examiner Burchmore: The stockholders then are shown on this document which will be filed as Exhibit 1.

Mr. Church: Yes, sir.

(The statement so offered and identified, was received in evidence and thereupon marked "Church Exhibit No. 1, received in evidence January 28, 1911," and is attached hereto.)

Examiner Burchmore: This contains in condensed form a great deal of information about the road?

Mr. Church: Yes, sir.

Examiner Burchmore: You prepared that statement?
6299 Mr. Church: I did.

Examiner Burchmore: Is it correct?

Mr. Church: I believe it to be.

Examiner Burchmore: The statement indicates that you have 10 locomotives, 166 logging cars, 4 flat and box cars, 1 caboose, 1 combination passenger and baggage car, and 5 other cars?

Mr. Church: Yes, sir.

Examiner Burchmore: Those cars are equipped with safety appliances?

Mr. Church: The logging cars are not. I think the others are.

Examiner Burchmore: Do you run trains on either or both of your divisions on a regular published schedule?

Mr. Church: Why they have a schedule. It is not published only in a typewritten form.

Examiner Burchmore: On which division or divisions do you run passenger trains?

Mr. Church: On the Barham Division.

Examiner Burchmore: Carry any passengers on the other road?

Mr. Church: No, sir, not to any extent.

Examiner Burchmore: Well, not for fare?

6300 Mr. Church: I think not on that division. We only have a caboose car. I believe we do report some passenger earnings, but it is so small that it don't amount to anything.

Examiner Burchmore: Have you the figures as to your operating revenues, particularly your freight revenues from traffic for a given period?

Mr. Church: Yes, the last fiscal year.

Examiner Burchmore: What figures can you give us on that?

Mr. Church: The gross revenue for the last fiscal year is reported as $234,388.24; the operating expense, $163,013.53; gross operating revenue, $71,374.71; net operating revenue, $62,534.57

Examiner Gutheim: Just a moment, Mr. Church. You said gross operating revenue $71,374.71?

Mr. Church: Yes, sir.

Examiner Burchmore: The difference between the gross operating revenue and the gross revenue seems to be very substantial. May I inquire what additional revenue you had outside of operating revenues that went to make up the $130,000.00 gross revenue?

Mr. Church: The railroad company does the logging, that is, they lay the spur tracks out in the woods and handle all of the logs

6301 on those spur tracks up to the main line for I think $1.25 a thousand. That, I believe, would account for the larger portion of that difference.

Examiner Burchmore: Do they report the tracks when they are in the woods as part of their mileage?

Mr. Church: Part of the branch lines, I believe.

Examiner Burchmore: Does the lumber company not have any locomotives of its own?

Mr. Church: No.

Examiner Burchmore: Does the railroad report to the commission all of the tracks, including logging spurs, which it operates?

Mr. Church: All that it operates, yes.

Examiner Burchmore: There are some up there that it does not operate?

Mr. Church: The lumber company on the Northern Division have some track of their own.

Examiner Burchmore: Well, but that track is operated by the railroad company?

Mr. Church: No, it is operated by the lumber company.

Examiner Burchmore: How does the lumber company operate the track without any locomotives?

6302 Mr. Church: It is operated by a joint train service. The lumber company have in the neighborhood of ten miles of track.

Examiner Burchmore: What was your tonnage for the last fiscal year?

Mr. Church: Gross tonnage, 216,346.

Examiner Burchmore: Tons?

Mr. Church: Yes, sir, tons.

Examiner Burchmore: What of that was logs and timber?

Mr. Church: 214,814.

Examiner Burchmore: Leaving 1,542 tons of other freight tonnage?

Mr. Church: Freight tonnage.

Examiner Burchmore: May I ask what that other tonnage was and for whom it was transported?

Mr. Church: It was freight which was largely for the Pickering interests, although there was some outside freight in there. It represents various merchandise, grain, hay, feed and coal.

Examiner Burchmore: What was the per cent of tonnage supplied by outside interests—that is, outside interests, I mean those not related to the W. R. Pickering Lumber Company?

Mr. Church: I should think about ¾ of 1 per cent.

6303 Examiner Burchmore: It is shown on that statement?

Mr. Church: It is shown upon this statement, yes.

Examiner Burchmore: Exhibit 1?

Mr. Church: Yes.

Examiner Burchmore: Do you make an annual report to the Interstate Commerce Commission?

Mr. Church: We do.

Examiner Burchmore: Comply with all federal and state laws as far as known?

Mr. Church: We believe we do, we try to.

Examiner Burchmore: Has the road paid any dividends?

Mr. Church: No, sir.

Examiner Burchmore: Have you any surplus?

Mr. Church: Yes, sir, there is a surplus of $76,158.62.

Examiner Burchmore: How was that surplus accumulated?

Mr. Church: I think it has accumulated several years, it is a back surplus.

Examiner Burchmore: Doesn't that pretty near offset this indebtedness you spoke of a little while ago?

Mr. Church: Very nearly, yes, sir, but the indebtedness has not been taken up yet.

Examiner Burchmore: The indebtedness could be taken

6304 up by offsetting the book surplus against it?

Mr. Church: I am not fully posted as to that.

Examiner Burchmore: This railroad has joint rates on lumber in connection with the railroads with which it joins?

Mr. Church: We have joint rates on lumber and other commodoties only with the Kansas City Southern.

Examiner Burchmore: Don't have any with the Lake Charles & Northern?

Mr. Church: Not at the present time.

Examiner Burchmore: How long since you have had?

Mr. Church: We never have had with them.

Examiner Burchmore: Those joint rates apply from stations on each of your divisions?

Mr. Church: Yes, sir.

Examiner Burchmore: By the way, those two divisions have no physical connection with each other?

Mr. Church: No, they are 22 miles apart.

Examiner Burchmore: To get from one to the other you would have to move your trains over the Kansas City Southern?

Mr. Church: Yes, sir.

Examiner Burchmore: Do you move your trains over the Kansas City Southern?

6305 Mr. Church: Very rarely.

Examiner Burchmore: Those joint rates apply from stations on both of those divisions?

Mr. Church: Both divisions, yes, sir.

Examiner Burchmore: Are the joint rates on a milling-in-transit basis?

Mr. Church: They are.

Examiner Burchmore: On both divisions?

Mr. Church: Both divisions, yes, sir.

Examiner Burchmore: Is transit actually applied?

Mr. Church: Under the ordinary methods, yes, that is applied to the lumber interests.

Examiner Burchmore: That is to say, the joint rates are supposed to cover the movement of the logs into the mill?

Mr. Church: Into the mill, and the finished product out.

Examiner Burchmore: And the railroad actually moves the logs to the mill?

Mr. Church: Yes, sir.

Examiner Burchmore: Does it actually move the timber out of the mill?

Mr. Church: It does either from Pickering or from Cravens. Cravens nearly all—in fact, at Cravens the railroad handles

6306 all of the finished product either on switch or load movement, but at Barham it does not. At Pickering it does not, only on part of the business.

Examiner Burchmore: On most of the business or a small portion?

Mr. Church: Out of Pickering I would say 25 per cent it performs of the road service.

Examiner Burchmore: Are the joint rates to which you are a party on lumber the same in amount as the rates which the Kansas City Southern charges from stations on its line?

Mr. Church: Yes, sir, a blanket rate system.

Examiner Burchmore: There is no arbitrary added to it?

Mr. Church: No, sir.

Examiner Burchmore: What division does your railroad receive?

Mr. Church: From $3\frac{1}{4}$ to $5\frac{1}{2}$.

Examiner Burchmore: On what traffic do they receive $5\frac{1}{2}$ cents?

Mr. Church: That which is confined to Kansas City Southern rails. Kansas City and south as far as Neosho.

Examiner Burchmore: What is the rate to Neosho?

Mr. Church: Thirty-four cents.

6307 Examiner Burchmore: Do you remember the Kansas City rate?

Mr. Church: Twenty-four cents.

Examiner Burchmore: You get 5½?

Mr. Church: Yes, sir.

Examiner Burchmore: What is the Kansas City Southern mileage to Kansas City?

Mr. Church: 676 from Pickering, 654 from Barham.

Examiner Burchmore: And they get eighteen and a fraction cents?

Mr. Church: Yes, sir.

Examiner Burchmore: I was under the impression that you said that the movement of the logs into the mill, $1.50 a car, was charged by the railroad against the lumber company.

Mr. Church: No, that is for the spur work.

Examiner Burchmore: Out of the woods?

Mr. Church: Out of the woods, up to the main line.

Examiner Burchmore: But the railroad owns those spurs?

Mr. Church: Yes, sir.

Examiner Burchmore: Operates them?

Mr. Church: It operates them. You see the joint rates apply from the main line, not from these spurs.

6308 Examiner Burchmore: Those spurs are not known as stations, are they?

Mr. Church: No, they are movable spurs.

Examiner Burchmore: What is the average division, if you can give us an idea?

Mr. Church: 2.90 cents is the average division.

Examiner Burchmore: How do you obtain the average, how do you find or determine it?

Mr. Church: Use the range of divisions and divide that by the number of divisions.

Examiner Burchmore: I will ask you in actual practice what is the average amount per 100 pounds that you receive on lumber that moves out from points on your line?

Mr. Church: I never made any computation as to that. I could not.

Examiner Burchmore: What is your opinion?

Mr. Church: I should think about three cents would be a fair figure.

Examiner Burchmore: How long since you have received any division on traffic interchanged with the Gulf, Colorado & Santa Fe?

Mr. Church: August, 1908, I believe.

6309 Examiner Gutheim: Mr. Church, I notice in the statement of the holdings of capital stock, that some of the individual holdings are in fractions of shares. Does that indicate that that stock is held by them in a proportion similar to their holdings in one or the other of the Pickering Lumber companies?

Mr. Church: I could not say as to that. I do not know the holdings in the lumber companies at all.

Examiner Burchmore: Have you any opinion on that subject?

Mr. Church: I have never been able to get any information on that subject at all.

Examiner Gutheim: How much of a haul does the Louisiana Central perform in taking the product of the Cravens mill and delivering it to the Santa Fe or the Lake Charles & Northern?

Mr. Church: Practically a mile and a half.

Examiner Burchmore: For that you get no division of the through rate?

Mr. Church: Nothing from the Santa Fe but a switching rate of two and a half per car from the Lake Charles & Northern.

Examiner Burchmore: How much of a haul is it on the product of the Cravens mill to the K. C. S.?

Mr. Church: It may be practically nineteen miles.

Examiner Burchmore: That is compensated for by the
6310 division of the rate by the K. C. S. on a milling-in-transit basis?

Mr. Church: Yes, sir.

Examiner Burchmore: Do you make any deliveries of the product of the Pickering mill to the Lake Charles & Northern or the Santa Fe?

Mr. Church: We do.

Examiner Burchmore: And you have a 19 mile haul on that?

Mr. Church: Yes, sir.

Examiner Burchmore: You get no revenue out of the Santa Fe rates on that?

Mr. Church: No.

Examiner Burchmore: Do you get anything from the Lake Charles & Northern?

Mr. Church: No, sir.

Examiner Burchmore: The deliveries from the Pickering mill to the Kansas City Southern and from the Barham mill to the Kansas City Southern are all taken out by the Kansas City Southern power?

Mr. Church: Practically, yes, sir, not altogether at Pickering though.

Examiner Burchmore: What rate of interest is paid by the
6311 railroad to the Pickering companies on the notes that are held by the lumber companies?

Mr. Church: Six per cent.

Examiner Burchmore: Are the officials of the W. R. Pickering Lumber Company, the Pickering Land and Timber Company and the Louisiana Central Railroad Company the same individuals?

Mr. Church: Practically the same, yes, sir, although in the railroad company, Mr. W. A. Pickering is president, while in the lumber company, Mr. W. R. Pickering is president of the lumber company.

Examiner Burchmore: You testified that your average division at the present time, all of which is received out of rates via the Kansas City Southern, was about three cents.

Have the divisions out of those Kansas City Southern rates been increased within the last two or three years?

Mr. Church: They have not.

Examiner Burchmore: And about what was the average division before the date of the increase?

Mr. Church: About 1¾ average.

Examiner Burchmore: When was that increase made?

Mr. Church: November, 1909. November 1st, I think, 1909.

6312 Examiner Burchmore: Was that about contemporaneously with the period at which you were making up your connection with the Lake Charles & Northern or the Santa Fe rails at Cravens?

Mr. Church: Right when the Santa Fe were at Cravens several years ago, about six months afterwards I believe.

Examiner Burchmore: Now you have been dickering more or less, have you not, with the Lake Charles & Northern here lately, to effect an arrangement for the division of through rates via Cravens?

Mr. Church: Yes, sir.

Examiner Burchmore: And are those arrangements still going on?

Mr. Church: They are in statu quo at present.

Examiner Burchmore: Just where is the hitch?

Mr. Church: The entire tap line proposition.

Examiner Burchmore: Now, as a matter of fact, Mr. Church, are you making any deliveries to the Santa Fe at Cravens of the product of the Pickering or Cravens mills?

Mr. Church: Yes, sir.

Examiner Burchmore: And about what proportion goes out via the Santa Fe?

Mr. Church: That is rather small. I have not the figures exactly.

6313 Examiner Burchmore: Well, it has decreased gradually since the time the divisions were taken out?

Mr. Church: It has.

Examiner Burchmore: Is there as much that goes via the Lake Charles & Northern as goes via the Kansas City Southern?

Mr. Church: No, sir.

Examiner Burchmore: About what proportion would you say goes to each of the three companies, that is, out of those mills' output?

Mr. Church: At Cravens I think about 75 per cent of the output goes to the Kansas City Southern as a rule, and of the remainder perhaps—well perhaps equally divided. It varies at times. Sometimes the Lake Charles & Northern will get the bulk of it, and then again the Santa Fe will secure it. Out of Pickering, there is probably 75 per cent of that tonnage which goes via the Kansas City Southern, and I don't know but what it is greater than that. The balance is divided between the Santa Fe and the Lake Charles & Northern.

Examiner Burchmore: Now, how long have you been making a

separate charge against the Pickering division for the log spur work?

Mr. Church: I think about two years.

6314 Examiner Burchmore: Prior to that time did the railroad receive any revenue whatever out of the hauling of logs other than the revenue that accrued on the division of the milling-in-transit rate?

Mr. Church: I think there was an arrangement of so much per car for those, as I recall.

Examiner Burchmore: That was a separate charge for the regular road haul?

Mr. Church: Yes, sir.

Examiner Burchmore: What was the reason for republishing the tariff so as to make a distinction between a regular road haul and the logging spur work?

Mr. Church: I believe that it was made because—I think it was to increase the revenue of the Louisiana Central, that seemed to be the object.

Examiner Burchmore: As a matter of fact, it did increase the revenue, I believe, but was there not also the statement taken into consideration that the milling-in-transit rate contemplated only a charge for transportation service, whereas, log spur work was logging or timber service?

Mr. Church: I think so.

6315 Examiner Burchmore: And it was really an endeavor to make your milling-in-transit rate a transportation rate instead of a logging rate?

Mr. Church: That was our intention, to handle the logs strictly as a transportation proposition.

Examiner Burchmore: Do you have any contract with the Kansas City Southern under which you receive a division other than the division sheets?

Mr. Church: Nothing but division sheets.

Examiner Burchmore: Any contract with the Lake Charles & Northern that provides for the absorption of the $2.50 switching charge?

Mr. Church: No.

Examiner Burchmore: Do you publish any local tariffs and file the same with the Commission?

Mr. Church: We do.

Examiner Burchmore: And do those tariffs provide for the transportation of commodities other than forest products?

Mr. Church: Carry a full line of class and commodity tariffs—class and commodity rates, I should say.

Examiner Burchmore: Are you keeping your accounts according to the classification laid down by the Commission?

Mr. Church: I believe we are.

6316 Examiner Burchmore: Just to get it into the record, was this joint track that was formely operated by you, a track that was operated in connection with the Missouri & Louisiana Railroad of the Central Coal and Coke Company?

Mr. Church: Yes, sir.

Examiner Burchmore: Mr. Sargent testified in regard to that.

Examiner Gutheim: Yes, he testified as to the whole transaction.

Examiner Burchmore: Did you hear Mr. Sargent's testimony?

Mr. Church: No, I did not.

Examiner Burchmore: Do the officials of the Louisiana Central Railroad Company, or any of them, have annual passes over the Kansas City Southern?

Mr. Church: Yes, sir.

Examiner Burchmore: What officers?

Mr. Church: The president, vice-president, traffic manager and auditor.

Examiner Burchmore: Those are the officers?

Mr. Church: Those are the officers.

Examiner Burchmore: You mean that is all the officers there are?

Mr. Church: That is all the officers that have Kansas City
6317 Southern transportation. There is the general superintendent.

Examiner Burchmore: Those gentlemen are all officers of the lumber company?

Mr. Church: Yes, sir.

Examiner Burchmore: Do they have transportation over other railroads?

Mr. Church: Some.

Examiner Burchmore: For example, railroads running to Chicago?

Mr. Church: Yes, sir.

Examiner Burchmore: Any east of Chicago?

Mr. Church: I think Mr. W. A. Pickering has Pere Marquette transportation.

Examiner Burchmore: Do they use those passes?

Mr. Church: East of the river?

Examiner Burchmore: No, generally speaking, do they use their passes?

Mr. Church: When they travel, yes, sir.

Examiner Burchmore: Whenever they travel over the lines on which they are given?

Mr. Church: Yes, sir.

6318 Examiner Burchmore: But you refer to east of the river, they use their passes to Chicago?

Mr. Church: Oh, yes. I mean to say——

Examiner Burchmore: Has the Louisiana Central Railroad any private cars for its officials?

Mr. Church: No, sir.

Examiner Burchmore: They do not travel around the country in a private car?

Mr. Church: I think not.

Examiner Burchmore: Haven't any car and party passes?

Mr. Church: No, sir.

Examiner Burchmore: Do you know of any short line railroads that do have car and party passes?

Mr. Church: I have never seen any.

Examiner Burchmore: The Arkansas & Southeastern Railroad is a short line railroad, isn't it?

Mr. Church: Yes, sir.

Examiner Burchmore: Has that railroad got a private car?

Mr. Church: Not that I know of.

Examiner Burchmore: Do you know whether the officials of that railroad have car and party passes?

Mr. Church: I have never seen any, no, sir.

6319 Examiner Gutheim: Can you say approximately, Mr. Church, about what proportion of the revenues of your road arises from the division of rates via the Kansas City Southern, how much from switching absorbed by the Lake Charles & Northern, and how much from local charges?

Mr. Church: I do not know as I can give that to you definitely. I think the annual report perhaps separates that. I can give it to you and file it, if you desire.

Examiner Gutheim: Let me ask you, in the year which was examined by the Commission, approximately 20 per cent of your revenue arose on divisions of rates via the K. C. S. and the Santa Fe, the proportion of the K. C. S. being about three and the Santa Fe one. Taking into consideration that you no longer have divisions via the Santa Fe, but that the division via the K. C. S. has been increased, would you say that your revenue at the present time is made up approximately one-fifth by divisions or more than one-fifth?

Mr. Church: I should say approximately one-fourth.

Examiner Gutheim: Approximately one-fourth?

Mr. Church: Yes, sir.

Examiner Gutheim: So that in the year for which you have submitted statistics, in the neighborhood of $50,000.00 was

6320 received in divisions?

Mr. Church: I think it was about that figure.

Examiner Burchmore: Is your road also a party to inbound rates on classes and commodities via either of your three connections?

Mr. Church: Via the Kansas City Southern.

Examiner Gutheim: Will you give briefly the proportion of such rates which accrue to your line?

Mr. Church: On meat and grain products from defined territory we receive 20 per cent of the rate, that is, the Kansas City rate or division south of Kansas City. On coal from Arkansas and Indian Territory mines we receive 45 cents per ton. On merchandise from Shreveport we receive 30 per cent. From Beaumont and from Lake Charles we receive about 25 per cent. These are rates to Cravens only. That is the only point we have through rates and divisions.

Examiner Gutheim: And on that you have a haul of 19 miles?

Mr. Church: We have a 19 mile road haul, yes, sir.

Examiner Gutheim: Are the records of your company in such shape as permits you to make a division of the cost of road between the road actually used in road transportation service, and the road used on log spur work?

6321 Mr. Church: I think so.

Examiner Gutheim: Will you have a statement furnished and submit it in connection with your testimony that will show that division of the item of $411,683.65 shown on the statement?

Mr. Church: Yes, sir.

Examiner Gutheim: I believe also, Mr. Church, that your auditor, Mr. Ingels, can furnish a division of your expense of maintenance of way?

Mr. Church: I think so.

Examiner Gutheim: Between the logging spurs and the road transportation?

Mr. Church: I think so. In case you desire it, we will gladly furnish it.

Examiner Gutheim: If you will furnish that also. That is all, Mr. Garwood.

Cross-examination:

Mr. Garwood: Mr. Church, the map which I hold in my hand shows the Louisiana Central division extending from Pickering to Cravens correctly, does it?

Mr. Church: Yes, sir.

6322 Mr. Garwood: I introduce that in the record. Mark it exhibit 2.

(The map so offered and identified, was received in evidence and thereupon marked "Church Exhibit No. 2, received in evidence January 28, 1911," consisting of one sheet, and is attached hereto.)

Mr. Garwood: This map shows the connection of the Louisiana Central with the Jasper & Eastern at Cravens?

Mr. Church: Yes, sir.

Mr. Garwood: Correctly, does it?

Mr. Church: Yes, sir.

Mr. Garwood: The red lines being the tracks of the Jasper & Eastern?

Mr. Church: Yes, sir.

Mr. Garwood: I will mark that Exhibit 3 and introduce it in evidence.

(The map so offered and identified, was received in evidence and thereupon marked "Church Exhibit No. 3, received in evidence January 28, 1911," consisting of one page, and is attached hereto.)

Mr. Garwood: Just strike out "Jasper & Eastern", Jasper & Eastern or Santa Fe. This map which I hold in my hand repre-

6323 sents the Barham division?

Mr. Church: Barham division, yes, sir.

Mr. Garwood: I introduce that as Exhibit 4.

(The map so offered and identified, was received in evidence and thereupon marked "Church Exhibit No. 4, received in evidence January 28, 1911," consisting of one sheet, and is attached hereto.)

Mr. Garwood: This plat represents the connection of the Louisiana Central at Pickering with the Kansas City Southern?

Mr. Church: Yes, sir.
Mr. Garwood: The Kansas City Southern tracks being indicated in red?
Mr. Church: In red ink, yes, sir.
Mr Garwood: I offer that as Exhibit 5.

(The plat so offered and identified, was received in evidence and thereupon marked "Church Exhibit No. 5, received in evidence January 28, 1911," consisting of one sheet, and is attached hereto.)

Mr. Garwood: And this is the connection of the Barham division with the Kansas City Southern? (Indicating on plat.)
Mr. Church: Yes, sir.
Mr. Garwood: The Kansas City Southern being indicated
6324 in red?
Mr. Church: In red, yes, sir.
Mr. Garwood: I offer that as Exhibit 7.

(The plat so offered and identified, was received in evidence and thereupon marked "Church Exhibit No. 7, received in evidence January 28, 1911," consisting of one sheet, and is attached hereto.)

Mr. Garwood: Mr. Church, is the Louisiana Central as a whole substantially and permanently constructed?
Mr. Church: We think so.
Mr. Garwood: Can you indicate to the Commissioner the bridges and trestles there are on the line?
Mr. Church: We have ten bridges with a total length of 304 feet, and four trestles with a length of 28.94 feet.
Mr. Garwood: Do you own your own right-of-way?
Mr. Church: We do, yes, sir.
Mr. Garwood: By purchase?
Mr. Church: By purchase.
Mr. Garwood: What is the width of the right-of-way?
Mr. Church: One hundred feet, as a rule.
Mr. Garwood: What is the weight of your rail?
Mr. Church: Runs from 35 to 60 pounds.
6325 Mr. Garwood: Can you indicate in a general way the relative proportion of the heavier to the lighter kind of rail?
Mr. Church: I can not in tons. I have tried to get that information, but it has not been given to me yet. I think approximately 35 pound represent 50 per cent, and the balance is divided up.
Mr. Garwood: About how many ties to the mile have you in your road?
Mr. Church: About 3,000 as a rule.
Mr. Garwood: What character of ties?
Mr. Church: They are pine and oak, principally pine, however.
Mr. Garwood: Are your trains run on regular schedule?
Mr. Church: We try to observe the schedule.
Mr. Garwood: Do you dispatch them?
Mr. Church: By telephone, yes, sir.
Mr. Garwood: Does the road own its own telephone?
Mr. Church: It owns the telephone line.

Mr. Garwood: How many miles of pole line has it, how many miles of wire line?

Mr. Church: It has, I think, about 18 miles approximately of pole line with a double strand of wire. This is a metallic
6326 circuit.

Mr. Garwood: I believe you described its equipment?

Mr. Church: Yes, sir.

Mr. Garwood: You carry some passengers?

Mr. Church: Very few.

Mr. Garwood: Do you recall the testimony of Commissioner Meredith, of the Louisiana Commission, as to putting on an order against your road relating to passengers?

Mr. Church: I do.

Mr. Garwood: Did you comply with that order?

Mr. Church: We have, yes, sir.

Mr. Garwood: You therefore offer the facilities demanded by the Louisiana Commission?

Mr. Church: We do.

Mr. Garwood: And are prepared to hold yourself out as a road to carry all who shall offer?

Mr. Church: Yes, sir.

Mr. Garwood: While your passenger travel is not extensive, you are yet holding yourself out and offering facilities for all who do apply?

Mr. Church: We do, yes.

Mr. Garwood: Do you furnish facilities and hold yourself
6327 out as a road to transport all shipments of freight that may be tendered to you by the general public?

Mr. Church: Everything, yes, sir.

Mr. Garwood: Has the railway company any facilities for repairing its equipment?

Mr. Church: Yes, sir, they have their own shops.

Mr. Garwood: Where?

Mr. Church: At Barham, Cravens, and Pickering.

Mr. Garwood: I believe you indicate that you make your regular reports to the Interstate Commerce Commission?

Mr. Church: Yes, sir.

Mr. Garwood: As required by the statute and its rules and regulations?

Mr. Church: Yes, sir.

Mr. Garwood: Have you a Washington agent?

Mr. Church: We have, Mr. Charles A. Douglas.

Mr. Garwood: I believe you stated the length of the haul that you have on the finished product from Cravens to Pickering?

Mr. Church: Yes, sir, practically 19 miles.

Mr. Garwood: Can you indicate what tonnage moves from Cravens to Pickering on the Kansas City Southern?

6328 Mr. Church: I can prepare that, but I have it not.

Mr. Garwood: I thought possibly you might remember it.

Mr. Church: I have not got it separated, but it is relatively 75 per cent of the output of that mill.

Mr. Garwood: You indicated to the Commissioner, I believe, the distance of each of your mills at Crayens, Pickering and Barham, respectively, from the tracks of your trunk line connection.

Mr. Church: Well, I think so.

Mr. Garwood: If not, please state it, so that it may be in the record?

Examiner Burchmore: I think that was answered.

Mr. Garwood: I thought so, but——

Mr. Church: Yes, sir.

Mr. Garwood: About what is the per cent of your operating expense to your operating revenue?

Mr. Church: 69 and a fraction, practically 70 per cent.

Mr. Garwood: Where you have no through rates in from the junction points, do you apply the local Louisiana tariffs?

Mr. Church: Why we apply our distance tariffs.

Mr. Garwood: Your distance tariffs?

Mr. Church: Yes, sir.

6329 Mr. Garwood: What divisions did you have in with the Gulf, Colorado & Santa Fe before it cancelled in 1908, generally, indicate in a general way the amount of the division.

Mr. Church: We received 2 cents per hundred to the points on the A. T. & S. F. proper north of Purcell west of the Missouri River and one cent east of the Missouri River. Those are all the divisions we had with them. They applied exclusively to the Santa Fe rails.

Mr. Garwood: Did you have any divisions in to Texas points?

Mr. Church: No, sir, no Texas divisions.

Mr. Garwood: No Texas points at all?

Mr. Church: No, sir.

Mr. Garwood: Have you any divisions on inbound stuff in with the Santa Fe now?

Mr. Church: No, sir.

Mr. Garwood: Have you any divisions on any product other than lumber with the Santa Fe?

Mr. Church: We have no divisions.

Mr. Garwood: You have none at all with them?

Mr. Church: None at all.

Mr. Garwood: Since 1908?

Mr. Church: Nothing at all.

6330 Mr. Garwood: What buildings have you belonging to the railroad along the different lines?

Mr. Church: We have a small station at Cravens, and repair shops, coal chutes, water tanks, section houses, telephone stations——

Mr. Garwood: Have you a round house?

Mr. Church: Yes, at Pickering and Barham—I mean Pickering and Cravens.

Mr. Garwood: Pump houses and so forth?

Mr. Church: We have at Cravens what they term a round house that will accommodate three engines.

Mr. Garwood: I will ask you in a general way if you have all of the appliances, buildings, and so forth, necessary to operate a railway safely and expeditiously for the accommodation of the public?

Mr. Church: Yes, sir.

Mr. Garwood: Are you prepared to handle less than carload freight?

Mr. Church: We handle more or less of it, yes, sir.

Mr. Garwood: Are you prepared to do it safely and properly to the owners of the——

Mr. Church: We think so.

6331 Mr. Garwood: What station agents have you?

Mr. Church: We have agents at Cravens, Pickering and Barham.

Examiner Burchmore: Are they also employed by the lumber company?

Mr. Church: Yes, sir, they are.

Mr. Garwood: Can you state, Mr. Church, if you know, about what is the expected life of the plants of the lumber company at Pickering, Cravens and Barham?

Mr. Church: At Barham I believe the present holdings will be exhausted in about two years, possibly a little shorter time, but at Pickering and Cravens about fifteen.

Mr. Garwood: What is the character of the country and soil there, that is to say, is it adapted to agricultural development?

Mr. Church: I think it will be, yes, sir.

Mr. Garwood: Raising corn, cane and cotton?

Mr. Church: Corn, vegetables, fruit and cotton.

Mr. Garwood: Is there beginning any development?

Mr. Church: Yes, at Pickering, the company known as the Pineland Manufacturing Company who own about 30,000 acres of the cut-over land, are making strong efforts to induce immigra-

6332 tion in that neighborhood, and I am told that last year they brought in possibly fifty families in that neighborhood there, selling their land out to these farmers in small sections and various tracts. There have been more or less products shipped from Pickering on the Kansas City Southern that have been raised in that neighborhood.

Mr. Garwood: I will ask you whether or not at Pickering there is an experimental farm of considerable proportions representing quite a large investment of money?

Mr. Church: Yes, sir, that is being done by this Grannis Plantation Company, which is, I think, connected with the Pineland Manufacturing Company, it is the same interest. They have perhaps a mile and a half from Pickering, quite an extensive experimental farm and that is where this product is obtained from largely that they have been shipping recently.

Mr. Garwood: The natural outlet for that product, that is, the most direct outlet north to Kansas City would be via the Kansas City Southern, would it not?

Mr. Church: Yes, sir.

Mr. Garwood: That would move over your line?

Mr. Church: Yes, sir.

6333 Mr. Garwood: From Pickering, its connection with the Kansas City Southern?

Mr. Church: From points out on the line as these immigrants develop their land, we would expect to haul their product.

Mr. Garwood: What is the population of Pickering, Cravens and Barham?

Mr. Church: I think Barham is about 300, Pickering perhaps 1,000. Cravens I should say 12,000 people.

Mr. Garwood: Mr. Church, from your general knowledge of lumber conditions, I would ask you the question whether the question of tap line divisions, the amount of them, or whether they are received or not cuts any figure in the sale of lumber as far as you have observed the trade?

Mr. Church: As far as I know of, it does not.

Mr. Garwood: Can you tell in a general way the number of section men on your road?

Mr. Church: I do not remember the number exactly, but I think about 60.

Mr. Garwood: About 60.

Mr. Church: That is my recollection, possibly more.

Mr. Garwood: They are sufficient to keep the road up to a proper standard——

6334 Mr. Church: Yes, sir

Mr. Garwood: For the safety of the——

Mr. Church: That number is increased from time to time as the emergency requires, however.

Examiner Burchmore: Do they maintain those logging spurs out in the woods?

Mr. Church: Yes, they are operated by the railroad, yes.

Examiner Burchmore: They are all operated by the railroad aren't they?

Mr. Church: Yes, but beyond Barham there is a railroad track that we have nothing to do with.

Examiner Burchmore: I thought you operated trains over them

Mr. Church: Well we do operate trains but not to—they have their own gang that attends to the construction work.

Mr. Garwood: How many engineers have you on your road?

Mr. Church: I think eight.

Mr. Garwood: How many firemen?

Mr. Church: The same number.

Mr. Garwood: Conductors?

Mr. Church: Three, I believe.

Mr. Garwood: Section foremen?

6335 Mr. Church: I think there is seven section foremen.

Mr. Garwood: I have a note here that indicates 89 other trackmen. You stated that you thought you had about sixty section men.

Mr. Church: Those other trackmen, Mr. Garwood, are section men, and perhaps I should have stated a higher figure. I did not recall the figures.

Mr. Garwood: I believe you said that your road owned shops.

Mr. Church: Yes, sir.

Mr. Garwood: Have your own shop men?

Mr. Church: Our own shop men for repair work.

Mr. Garwood: Anything further that you care to say, Mr. Church?

Mr. Church: I do not recall of anything special.

Examiner Gutheim: Mr. Church, Judge Garwood asked you about Pickering, Barham and Cravens. Pickering is generally known as a mill town, isn't it?

Mr. Church: Yes, sir.

Examiner Gutheim: It owes its existence to the establishment of the Pickering Lumber Company's plant at that point?

Mr. Church: Originally, yes, sir.

Examiner Gutheim: Barham is in the same class?

6336 Mr. Church: I should say so.

Examiner Gutheim: Cravens is also served by the Lake Charles & Northern and the Santa Fe, isn't it?

Mr. Church: Yes, sir.

Examiner Gutheim: Judge Garwood also asked you about whether your road was equipped with the ordinary corporation service required. How many communities are there that the road serves outside of Pickering, Barham and Cravens, which are termini?

Mr. Church: Between Pickering and Cravens there are more or less farmers in there; no settlements of any consequence, however.

Examiner Gutheim: Any post offices or stores?

Mr. Church: There are some post offices, I believe, one or two and on the west arm there are several, several communities and post offices, but I am not familiar exactly——

Examiner Gutheim: Those post offices do not obtain their mail off your lines?

Mr. Church: No, we have no mail or express companies.

Examiner Gutheim: Now is the Pickering Lumber Company interested in the Pineland Manufacturing Company?

Mr. Church: No, sir, they are not.

6337 Examiner Gutheim: In the New Grannis Plantation Company?

Mr. Church: No, sir.

Examiner Gutheim: Now you said that approximately fifty families had been brought in for settlement.

Mr. Church: I am informed that.

Examiner Gutheim: And I judge from your answer to Judge Garwood's question, that they are generally located within about a mile and a half of Pickering?

Mr. Church: That is where this Grannis plantation is. They are located various distances, nearly all of them east, southeast and northeast of Pickering.

Examiner Gutheim: As a matter of fact, do they use your line in sending out anything? Is it not just as profitable and perhaps just as reasonable for them to turn in their farm products to the K. C. S. or to the trunk line direct?

Mr. Church: At the present time, yes, sir.

Examiner Gutheim: Are there any settlements on the other division of the railroad?

Mr. Church: There are beyond Bayou Toro, a few in there. Bayou Toro, by the way, is a post office and has been established about 60 years. That is an old community in there.

Examiner Gutheim: That is the western terminus of the Barham line?

6338 Mr. Church: Yes, sir.

Examiner Burchmore: Any cemetery there?

Mr. Church: There may be, I don't know.

Examiner Gutheim: You also said to Mr. Garwood that the divisions cut no figure in the price of the lumber. In your estimation do they cut any figure in the cost of the lumber?

Mr. Church: I don't think they are considered at all in that way.

Examiner Gutheim: Doesn't the fact that the Louisiana Central receive divisions result in a lower cost of manufacturing lumber to the Pickering Lumber Company, assuming that the Pickering Lumber Company owns the railroad?

Mr. Church: Assuming that, it perhaps would.

Examiner Gutheim: I think that is all.

Mr. Garwood: Just one more question. I wish you would state which lines were at Cravens first and how they came in there afterwards.

Mr. Church: The Louisiana Central was there at Cravens perhaps a year before any other line. Then afterwards the Santa Fe or the Jasper & Eastern was built in there, and later on the Lake Charles & Northern made some contract that resulted in the joint operation of that track from De Ridder east.

6339 Mr. Garwood: Do you know whether the Goulds own any large tracts of lumber lands in that vicinity?

Mr. Church: I understand they own quite a little timber land east of Barham.

Mr. Garwood: East of Barham?

Mr. Church: Yes, east of the Kansas City Southern toward the T. & P. line, between Shreveport——

Mr. Garwood: Approximately 100,000 acres?

Mr. Church: I think easily that. I have never had the exact figures, but I know they are interested there in our territory quite extensively, or were.

Mr. Garwood: They are popularly supposed to be the stockholders in a great many rail lines, some of which enter Louisiana and some of which enter Texas.

Mr. Church: Yes, sir.

Mr. Garwood: That is all, your Honor.

Examiner Burchmore: What railroads go into or near that tract of timber that you refer to as the Gould tract?

Mr. Church: I think the Texas & Pacific are the nearest, that is, besides the Kansas City Southern.

Examiner Burchmore: Any short line railroads run in there?

Mr. Church: I am not sure as to that. I am not very
6340 familiar with it.

Examiner Burchmore: Are the Goulds interested in short line railroads?

Mr. Church: I don't know.

Examiner Gutheim: As a matter of fact, Mr. Church, your line from Barham runs west of the K. C. S.?

Mr. Church: Yes, sir.

Examiner Gutheim: And I understand this timber of the Goulds is east of the K. C. S.?

Mr. Church: Yes, sir.

Examiner Gutheim: And so it is not likely your line will serve that timber at all?

Mr. Church: No, although the Pickering Company have some timber east of Pickering, but it is not likely that we will serve it.

Mr. Garwood: It is a fact, is it not, Mr. Church, that the connection of a short line railway, so-called, with a lumber mill by stockholding interests otherwise would have the same relation perhaps to the cost of production of lumber that a large mill and large complete machinery and a large investment would to small investments?

Mr. Church: I think so.

6341 Examiner Gutheim: Economical operation and transportation?

Mr. Church: I think so.

Examiner Burchmore: Mr. Coleman?

Mr. Coleman: Mr. Church, do you know whether the Pickering interests anticipated the extension of the Santa Fe, Jasper & Eastern line to and beyond Cravens before the Pickering interests decided to build its own line to Cravens?

Mr. Church: I think they did.

Mr. Coleman: Do you know that the matter was taken up by the Pickering interests with the Santa Fe?

Mr. Church: I do not.

Mr. Coleman: Were you with the Pickering interests at the time?

Mr. Church: No, not at that time.

Mr. Coleman: Do you know, Mr. Church, whether at the time that they anticipated the extension of the Santa Fe, they had not completed arrangements with the Missouri & Louisiana Railway for the operation of Louisiana Central trains over the Missouri & Louisiana into Cravens?

Mr. Church: I don't know anything about the details of that, Mr. Coleman.

Mr. Coleman: That is all.

6342 Mr. Garwood: Might I ask you a question, Mr. Coleman? Where is the Industrial Lumber Company? I don't recollect where its lands are situated.

Mr. Coleman: Pretty generally speaking, as I understand it, between Elizabeth and stations west or east of Cravens and Oakdale. That is known as the Wright-Blodgett tract, which was purchased from time to time, a portion to the Fullerton interest, a portion to the Pickering interests, and a portion to the Industrial Lumber Company.

Mr. Garwood: Could you say whether the Industrial Lumber Company had acquired those lands prior—that is all, Mr. Church—prior to the construction of the Jasper & Eastern?

Mr. Coleman: I think not, in fact I feel very positive that they were not acquired until it was determined to build a line to Cravens.

Mr. Garwood: I think that is all.

6343 *Gulf & Sabine River Railroad Company.*

S. H. FULLERTON was called as a witness, and having been duly sworn, testified as follows:

Direct examination:

Examiner Burchmore: Mr. Fullerton, please give your name to the stenographer.

Mr. Fullerton: S. H. Fullerton.

Examiner Burchmore: Mr. Fullerton, are you an officer of the Gulf & Sabine River Railroad Company?

Mr. Fullerton: Yes, sir.

Examiner Burchmore: What is your office?

Mr. Fullerton: President.

Examiner Burchmore: Are you connected with any lumber company?

Mr. Fullerton: Yes, sir.

Examiner Burchmore: If so, what companies?

Mr. Fullerton: I am connected with a good many lumber companies. I am president of the Gulf Lumber Company, Chicago Lumber and Coal Company——

Examiner Burchmore: That company owns the Gulf Lumber Company, I suppose, too?

6344 Mr. Fullerton: No, it owns some stock in the Gulf Lumber Company, but it does not own a controlling interest. President of the Bradley Lumber Company, British American Mills and Timber Company, Brown Lumber Company, Chicago Gulf Export Lumber Company, Chicago Lumber and Coal Company of Texas, Fullerton-Stewart Lumber Company, Fullerton & Powell Lumber Company—Hardwood Lumber Company, William Farrell Lumber Company, Fullerton-Moses Tie Company, Schultz Lumber Company, Switzer Lumber Company, Silver Lake Manufacturing Company, and I am vice-president of some others.

Examiner Burchmore: Are you interested in the Dayton Lumber Company?

Mr. Fullerton: No, sir.

Examiner Burchmore: Aren't you a stockholder in that company?

Mr. Fullerton: No, sir.

Examiner Burchmore: Any members of your family stockholders in that company?

Mr. Fullerton: Yes, sir.

Examiner Burchmore: We had that case last night, Mr. Fullerton.

Mr. Fullerton: I was a stockholder in that company for
6345 some time, but I sold my stock to my son and he is a stockholder.

Examiner Burchmore: What is his name?

Mr. Fullerton: Robert W. Fullerton.

Examiner Burchmore: How long since you have been in that company?

Mr. Fullerton: Well I think I was in since its organization.

Examiner Burchmore: I mean how recently did you sell your stock?

Mr. Fullerton: Possibly six or eight months ago.

Examiner Burchmore: That is since June 30, 1910?

Mr. Fullerton: I could not tell you exactly whether it was since that time.

Examiner Burchmore: Are you now a stockholder or a director or both in the Trinity Valley & Northern Railway?

Mr. Fullerton: I am a stockholder. I am not an officer.

Examiner Burchmore: You are not a director?

Mr. Fullerton: No, sir.

Examiner Burchmore: Is your son a director in that company?

Mr. Fullerton: I think he is.

Examiner Burchmore: Does your son or do the members of your family control the Dayton Lumber Company?

6346 Mr. Fullerton: No, sir.

Examiner Burchmore: The Trinity Valley & Northern Railway?

Mr. Fullerton: No, sir.

Examiner Burchmore: The interest of your family or relatives is a minor one?

Mr. Fullerton: Minor.

Examiner Burchmore: Questions were asked last night and a witness said that you were present and would be able to answer several questions. When was the Gulf & Sabine River Railroad Company incorporated?

Mr. Fullerton: On September 1, 1906.

Examiner Burchmore: You were at that time interested in the corporation?

Mr. Fullerton: Yes, sir.

Examiner Burchmore: What was and is its capitalization?

Mr. Fullerton: We have $100,000.00 capital.

Examiner Burchmore: Is that all outstanding?

Mr. Fullerton: All outstanding, yes.

Examiner Burchmore: Was it issued for cash or for property acquired?

Mr. Fullerton: The Gulf & Sabine River Railroad Company was organized before the Gulf Lumber Company was organized.

6347 The Gulf Lumber Company, the Chicago Lumber and Coal Company or its subsidiary company, bought its interest and incorporated or caused this railroad to be incorporated, and they afterwards sold that to the Gulf Lumber Company, and the Gulf Lumber Company acquired the timber holdings of the Chicago Lumber and Coal Company, together with this railroad company in the purchase.

Examiner Burchmore: Do you refer to the Gulf Lumber Company as a subsidiary corporation of the Chicago Lumber and Coal Company?

Mr. Fullerton: No, sir, it is an independent company, it is not a subsidiary company, because we do not control it.

Examiner Burchmore: I just wanted to get one or two of the general facts in a general way in the beginning so as to understand a little about the case. This railroad is built in two separate sections?

Mr. Fullerton: Yes, sir.

Examiner Burchmore: One section is known as the Fullerton division?

Mr. Fullerton: Yes.

Examiner Burchmore: That connects with the Gulf, Colorado & Santa Fe and Lake Charles & Northern?

6348 Mr. Fullerton: Yes, sir.

Examiner Burchmore: At Nitram, Louisiana?

Mr. Fullerton: Yes, sir.

Examiner Burchmore: And extends to Fullerton?

Mr. Fullerton: Yes, sir.

Examiner Burchmore: A distance of approximately eighteen miles?

Mr. Fullerton: No.

Examiner Burchmore: What is that distance?

Mr. Fullerton: The main line from Nitram to Fullerton you have got on this paper as being 10.05 miles.

Examiner Burchmore: What is the distance between those two points?

Mr. Fullerton: I think the distance betwen Nitram and Fullerton now is 6.4.

Examiner Burchmore: How many locomotives and cars are there on that division?

Mr. Fullerton: Well the general manager can answer that better than I can.

Examiner Burchmore: Three or four locomotives and a number of cars?

Mr. Fullerton: The road has seven locomotives altogether.

6349 Examiner Burchmore: The other division of the railroad and the only other division it has is the Stables division?

Mr. Fullerton: That is all.

Examiner Burchmore: That connects with the Kansas City Southern at Stables, Louisiana?

Mr. Fullerton: Yes, sir.

Examiner Burchmore: And extends in what direction and for what distance?

Mr. Fullerton: South and west from Stables.

Examiner Burchmore: To a point known as Stevensville?

Mr. Fullerton: It extends to Klarpsville.

Examiner Burchmore: That is all.

Examiner Marble: It may be I will cover questions that your Honor has already passed, but if I do, you will bear with me. This timber was in the first instance bought by the Chicago Lumber and Coal Company?

Mr. Fullerton: The timber around Stables, a portion of it.

Examiner Marble: And the timber around Fullerton?

Mr. Fullerton: That was bought directly by the Gulf Lumber Company.

Examiner Marble: You have testified that there is no relation between the Gulf Lumber Company and the Chicago Lumber
6350 and Coal Company, have you?

Mr. Fullerton: What do you mean by relationship?

Examiner Marble: Well, does one own the stock of the other to any extent?

Mr. Fullerton: The Chicago Lumber and Coal Company is a stockholder in the Gulf Lumber Company, but the Gulf Lumber Company does not own any stock in the Chicago Lumber and Coal Company.

Examiner Marble: To what extent is the Chicago Lumber and Coal Company a stockholder in the Gulf Lumber Company?

Mr. Fullerton: I think we own about a third of the capital stock.

Examiner Marble: One-third?

Mr. Fullerton: Yes, about that.

Examiner Marble: Who owns the rest of the stock of the Gulf Lumber Company?

Mr. Fullerton: The stockholders, various people.

Examiner Marble: Is the Chicago Lumber and Coal Company the largest stockholder?

Mr. Fullerton: Yes.

Examiner Marble: Who is the next largest stockholder?

Mr. Fullerton: Well I don't know really who is.

6351 Examiner Burchmore: Mention some stockholders.

Mr. Fullerton: I am one of the largest individual stockholders personally.

Examiner Marble: What proportion of the stock of the Gulf Lumber Company do you own?

Mr. Fullerton: Of the Gulf Lumber Company?

Examiner Marble: Yes.

Mr. Fullerton: Well, I think I own possibly $350,000.00.

Examiner Marble: Give it as a fractional portion.

Mr. Fullerton: That would be ten per cent.

Examiner Marble: About ten per cent?

Mr. Fullerton: About that.

Examiner Marble: Do you own stock in the Chicago Lumber and Coal Company?

Mr. Fullerton: Yes, sir.

Examiner Marble: What proportion of that do you own?

Mr. Fullerton: Well I possibly own about one-seventh.

Examiner Marble: Now then I am taking more time about this than I should. Are those two companies practically controlled by the same interests?

Mr. Fullerton: No, I should not say so. While there are stockholders in the Gulf Lumber Company who are also stock-
6352 holders in the Chicago Lumber and Coal Company, there are quite a number of stockholders in the Chicago Lumber and Coal Company, who are not interested at all in the Gulf Lumber Company and quite a number in the Gulf Lumber Company not interested in the Chicago Lumber and Coal Company.

Examiner Marble: But they are controlled in harmony and have the same president?

Mr. Fullerton: I am president of both companies.

Examiner Burchmore: The Chicago Lumber and Coal Company had a former case before the Commission, involving lumber reparation. That case was partially heard at New Orleans in 1908, was it not, Mr. Saunders?

Mr. Saunders: Yes, sir.

Examiner Burchmore: Are you familiar with the record in that case, Mr. Saunders?

Mr. Saunders: Fairly so, I did not try the case.

Examiner Burchmore: I will ask Mr. Saunders or Mr. Fullerton whether the record in that case has any testimony as to the relation, if any, that existed between the Chicago Lumber and Coal Company and the Gulf Lumber Company?

6353 Mr. Saunders: My recollection is that there was a statement filed in there showing some relationship.

Mr. Fullerton: I don't think I know anything about it, that is, I don't think I ever read the testimony, and I was not present in the courtroom.

Examiner Burchmore: Has there been any change in—any substantial change in the stocks or ownership of the two companies since 1909?

Mr. Fullerton: Yes, there have been some changes.

Examiner Burchmore: Minor changes simply incident to purchases and sales of small holdings and stocks?

Mr. Fullerton: Yes, some rather large changes. I know of one party who sold $32,000, thirty or thirty-two thousand.

Examiner Marble: You are president of both of these companies, are you?

Mr. Fullerton: Yes, sir.

Examiner Marble: Are you the managing head, the executive head of both companies?

Mr. Fullerton: Executive head, yes, sir.

Examiner Marble: Have they other officers in common?

Mr. Fullerton: Well, yes, some of the directors that are
6354 directors of the Gulf Lumber Company are also directors in the Chicago Lumber & Coal Company, but there is none of them that takes any active control or any active management.

Examiner Marble: You have a Chicago Lumber & Coal Company of Texas, have you?

Mr. Fullerton: Yes, sir, it is a separate corporation.

Examiner Marble: Is its stock owned by the Chicago Lumber & Coal Company?

Mr. Fullerton: The majority of it.

Examiner Marble: All except directors' shares?

Mr. Fullerton: No, the party managing the business—That is a selling organization.

Examiner Marble: A selling organization?

Mr. Fullerton: Yes, sir, the Chicago Lumber & Coal Company is a selling organization. It does not manufacture any lumber and this Chicago Lumber & Coal Company of Texas is a subsidiary Company of the Chicago Lumber & Coal Company of Iowa, and that was organized to assist in selling the products of the Gulf Lumber Company, because we did not care to go into the State of Texas with our corporation.

Examiner Marble: Does the Chicago Lumber & Coal Company market the output of the Gulf Lumber Company?

6355 Mr. Fullerton: Practically all of it.

Examiner Marble: And these various other companies as well?

Mr. Fullerton: Yes, sir.

Examiner Marble: Various other companies in which you are interested?

Mr. Fullerton: Others in which we are not interested.

Examiner Marble: It is a selling company for some outside concerns in which you are not interested at all?

Mr. Fullerton: Yes, sir.

Examiner Marble: Going to the Gulf & Sabine River proposition, what did you say was the length of that road from Fullerton to Nitram?

Mr. Fullerton: The report says that there is 10.05 miles of main track from Nitram to Fullerton.

Examiner Marble: The distance from Nitram to Fullerton is five miles?

Mr. Fullerton: No, it is 6.04 miles, I think.

Examiner Marble: What is it that is five miles?

Mr. Fullerton: Originally it was built to the edge of the town of Fullerton—Fullerton is now an incorporated town, and in order to get to our mills where the logs were shipped to, it was 6.4

6356 miles from Nitram.

Examiner Marble: So that the distance from the mill to Nitram is 6.4 miles?

Mr. Fullerton: Yes, sir.

Examiner Marble: Who owns the stock of the Gulf & Sabine River Railroad?

Mr. Fullerton: It is owned by the same people that own the stock in the Gulf Lumber Company.

Examiner Marble: It is not owned by the Gulf Lumber Company then?

Mr. Fullerton: No, sir.

Examiner Marble: Is it owned by the same people in the same proportion?

6357 Mr. Fullerton: Well, it was originally that way, but I think that those things have changed, by reason of people selling their stocks in one and retaining their stock in the other, so that the proportion would not be the same now.

Examiner Marble: When was that five miles of track constructed?

Mr. Fullerton: I think it was in 1907.

Examiner Marble: After the purchase of this timber from around Fullerton by your Company?

Mr. Fullerton: Yes.

Examiner Marble: Was it constructed at the same time that you built your mill at Fullerton?

Mr. Fullerton: It was constructed before we built the mill.

Examiner Marble: The machinery for the mill then was brought in over that line?

Mr. Fullerton: Over that line, yes.

Examiner Marble: Did you attempt to secure the building of any trunk line or any other railroad to that point before you undertook to operate yourself?

Mr. Fullerton: I beg your pardon?

Examiner Marble: Did you attempt to persuade any trunk line to build a line to Fullerton before building this road your-

6358 self?

Mr. Fulerton: Not that I recollect of.

Examiner Marble: How?

Mr. Fullerton: I don't recollect having done so.

Examiner Marble: Did any trunk line offer to build to Fullerton?

Mr. Fullerton: Not that I recollect of.

Examiner Marble: Didn't the Santa Fe offer to build to Fullerton?

Mr. Fullerton: I don't think so.

Examiner Marble: Did any officer of the Santa Fe offer to build to Fullerton?

Mr. Fullerton: I think that Mr. Hershey and Mr. Coleman came into my office and said that they were constructing a line of railroad through that country and that it might possibly be changed; they had their right of way secured or located, but that it might be changed, if we would indicate, or if we wished to have them come closer to my property. That is my recollection of the conversation.

Examiner Marble: What did you tell them?

Mr. Fullerton: My recollection is that I told them that we expected to build the railroad ourselves.

6359 Examiner Marble: You expected to build the railroad yourself?

Mr. Fullerton: Yes.

Examiner Marble: Did you follow that up in any way to try to get the Gulf, Colorado & Santa Fe?

Mr. Fullerton: No, sir.

Examiner Marble: The Santa Fe Railroad to build?

Mr. Fullerton: No, sir.

Examiner Marble: You had your own plans and did not want them to build up to Fullerton, is that the idea?

Mr. Fullerton: I did not care. They had a right to do as they pleased, which they undoubtedly did do anyway.

Examiner Marble: Did you tell them that they were quite as near as you wanted them to get?

Mr. Fullerton: I don't recollect having told them anything of that kind.

Examiner Marble: Do you care to tell us why you did not try to get trunk line facilities, instead of having yourself removed at a distance from a trunk line?

Mr. Fullerton: Well, now, I think that is a business proposition That we had a right to determine for ourselves.

6360 Examiner Marble: A man starting a great industry, one would naturally think he would be pleased to have direct touch with a trunk line instead of being——

Mr. Fullerton: A person starting a great industry that furnishes a large amount of tonnage might wish to do the carrying part as well as the manufacturing part.

Examiner Marble: Was that the motive that impelled you in this matter?

Mr. Fullerton: Well, in all probability.

Examiner Marble: Now then, that road being built, the Santa Fe did not swerve from the line of its original survey, but constructed its road due east and north, to the northwest, and it goes through this town called Nitram. That is the Santa Fe line there now; you have a junction at Nitram with the Santa Fe tracks?

Mr. Fullerton: Yes, sir.

Examiner Marble: And you built from Fullerton down to Nitram?

Mr. Fullerton: Yes, sir.

Examiner Marble: Did the Santa Fe pay any divisions or allow interest to the Gulf & Sabine River Railroad?

Mr. Fullerton: I think not.

6361 Examiner Marble: Ever?

Mr. Fullerton: Not that I recollect of.

Examiner Marble: Did it refuse to pay?

Mr. Fullerton: I don't know that there was ever any formal request made of that company to establish rates and divisions.

Examiner Marble: An effort was made to get them.

Mr. Fullerton: Not by me, and I don't know whether it was attempted by anyone else. If it was, I do not know of it.

Examiner Marble: Didn't they at first pay you two cents for a time?

Mr. Fullerton: The Santa Fe?

Examiner Marble: Yes.

Mr. Fullerton: Not that I recollect of; I don't think they ever did

Examiner Marble: Didn't they offer you two cents?

Mr. Fullerton: I don't think so.

Examiner Marble: Or one cent?

Mr. Fullerton: I don't think they ever did.

Examiner Marble: Isn't it a fact that the Santa Fe Railroad offered you allowances of one or two cents, but refused to
6362 make a contract for any length of time?

Mr. Fullerton: Not to my knowledge.

Examiner Marble: Or some officer of the Santa Fe?

Mr. Fullerton: It never was reported to me if such offer was ever made.

Examiner Marble: If it was, if such a proposition to pay one cent on certain shipments and two cents on certain other shipments, but a refusal to make a time contract in the matter was made to any of your officials, it was not reported to you?

Mr. Fullerton: No.

Examiner Marble: You are not familiar with it?

Mr. Fullerton: No, sir.

Examiner Marble: From what road are you now getting divisions or allowances?

Mr. Fullerton: The Lake Charles & Northern.

Examiner Marble: The Lake Charles & Northern at its southern terminus begins at Lake Charles, Louisiana, does it not?

Mr. Fullerton: I think so.

Examiner Marble: And runs directly north to De Ridder?

Mr. Fullerton: Yes, sir.

6363 Examiner Marble: From that point it operates to Nitram over the tracks of the Gulf, Colorado & Santa Fe Railroad, does it not?

Mr. Fullerton: Yes, sir.

Examiner Marble: Has it anything to do with the securing of that trackage right of the Lake Charles & Northern over the tracks of the Santa Fe?

Mr. Fullerton: No.

Examiner Marble: Did you guarantee any tonnage to the Lake Charles & Northern before they made that arrangement with the Santa Fe?

Mr. Fullerton: Yes, we had an understanding that we would deliver a certain amount or proportion of tonnage.

Examiner Marble: A certain proportion of tonnage?

Mr. Fullerton: Yes, sir.

Examiner Marble: What proportion?

Mr. Fullerton: 80 per cent of timber from certain lands.

Examiner Marble: What proportion of output of the mills at Fullerton would that be?

Mr. Fullerton: Well, that would be 80 per cent.

Examiner Marble: 80 per cent of those mills at Fullerton?

Mr. Fullerton: Yes, sir.

6364 Examiner Marble: Were there any territorial descriptions as to destination, in the agreement as to destination?

Mr. Fullerton: Yes, there was; it was to points where they had rates and divisions.

Examiner Marble: Points where the Lake Charles & Northern had rates and divisions?

Mr. Fullerton: Yes, but where they did not have rates and divisions, of course it would not apply.

Examiner Marble: You are going beyond that 80 per cent in your actual routing of your shipments at the present time, are you not?

Mr. Fullerton: I think so.

Examiner Marble: You are shipping all of your output over the Lake Charles & Northern, are you not?

Mr. Fullerton: Yes, sir, practically.

Examiner Marble: Did you personally have charge of the arrangement for divisions with the Lake Charles & Northern?

Mr. Fullerton: No.

Examiner Marble: The negotiations?

Mr. Fullerton: No, I did not.

Examiner Marble: Who did?

Mr. Fullerton: Mr. C. I. Mallard, who was at that time
6365 president of the Gulf & Sabine River Railroad. I think he was the person who negotiated the divisions originally. Since that time Mr. Fleishel, the general manager, has attended to that.

Examiner Marble: Is Mr. Mallard here?

Mr. Fullerton: No.

Examiner Marble: Where is he?

Mr. Fullerton: He is at Norfolk, Virginia, lives there.

Examiner Marble: What is his present business?

Mr. Fullerton: Well, he is now president of the John L. Roper Lumber Company, and an officer in some railroad down there.

Examiner Marble: Is that one of your interests, Mr. Fullerton?

Mr. Fullerton: No, sir.

Examiner Marble: Did Mr. Mallard report to you from time to time?

Mr. Fullerton: Yes, sir.

Examiner Marble: In the progress of these negotiations?

Mr. Fullerton: Yes, sir.

Examiner Marble: With whom did he carry on these negotiations?

6366 Mr. Fullerton: Carried on the negotiations I think with Mr. Fay.

Examiner Marble: Mr. Fay of the——

Mr. Fullerton: Southern Pacific.

Examiner Marble: Of the Southern Pacific interests?

Mr. Fullerton: Yes, sir.

Examiner Marble: Had the Southern Pacific interests bought the Lake Charles & Northern, when those negotiations began?

Mr. Fullerton: I don't know.

Examiner Marble: When did those negotiations begin, can you fix the time?

Mr. Fullerton: Well, it was 1906, possibly the last of 1906 or 1907, I think, is when we bought the timber. It is possible that the negotiations were had about that time.

Examiner Marble: About the time of the purchase of the timber?
Mr. Fullerton: Practically.
Examiner Marble: But before the construction of your railroad there?
Mr. Fullerton: I think so.
Examiner Marble: Did you have those suggestions in mind when Mr. Coleman called upon you to suggest that the Santa Fe
6367 would build direct to Fullerton?
Mr. Fullerton: I don't know.
Examiner Marble: Had they been begun before he called upon you?
Mr. Fullerton: It is quite probable. I don't recollect the time when he called upon me.
Examiner Marble: Can you fix the time when the material for the mill was shipped in?
Mr. Fullerton: Well, it must have been in 1907; wasn't it?
Mr. Fleishel: Yes.
Examiner Marble: Were those divisions with Mr. Fay's interest agreed upon before the Gulf & Sabine River Railroad was constructed?
Mr. Fullerton: I think not.
Examiner Marble: Were they discussed with him before it was constructed?
Mr. Fullerton: Probably.
Examiner Marble: Well, now, certainly, was it all one concurrent transaction, is that what you mean to say, all going on at the same time?
Mr. Fullerton: No, I think not. I think the matter was discussed either with Mr. Fay or with some person representing the
6368 Southern Pacific interests.
Mr. Cowan: Which Mr. Fay was that?
Examiner Marble: Mr. Charles S. Fay, was it not?
Mr. Fullerton: I believe it was either Charles S. Fay or Thornwell, and I presume it was with Charles S. Fay.
Examiner Marble: I will ask you, Mr. Fullerton, in the railroad organization in the Southern Pacific, which is the superior of the two, in point of authority, Mr. Charles S. Fay, or Mr. Thornwell Fay?
Mr. Fullerton: Thornwell Fay.
Examiner Marble: What is his position?
Mr. Fullerton: I understand that he is general manager or vice-president of the Texas Lines, or Southern Lines of the Southern Pacific.
Mr. Cowan: Mr. Garwood can tell you all about it.
Examiner Marble: Did you have any communication with Mr. Thornwell Fay yourself?
Mr. Garwood: The Louisiana end of it, I have no connection with the Louisiana lines at all.
Mr. Cowan: I thought maybe you might know.
Mr. Garwood: Of course I know of it.
Mr. Fullerton: I did not catch your question.

6369 Mr. Garwood: Mr. Thornwell Fay is vice-president and general manager, both of the Louisiana lines and the Texas lines, and my understanding, while I have no connection with the Louisiana lines, Mr. Charles Fay is general freight agent of the Louisiana lines.

Examiner Marble: Did you personally have any communication with Mr. Thornwell Fay regarding this matter?

Mr. Fullerton: I don't think that I did personally.

Examiner Marble: Did you have any communication with any superior of Mr. Tornwell Fay?

Mr. Fullerton: I did not personally conduct these negotiations, and consequently I did not—I don't know.

Examiner Marble: Were there negotiations conducted and carried on with the officers of the Southern Pacific interests who were superior even to Mr. Thornwell Fay?

Mr. Fullerton: I think so.

Examiner Marble: Whom?

Mr. Fullerton: Some of the officers in New York.

Examiner Marble: With Mr. Harriman?

Mr. Fullerton: Yes, possibly with Mr. Harriman.

Examiner Marble: That is your understanding, that negotiations were carried on with Mr. Harriman in this matter?

6370 Mr. Fullerton: Yes, sir.

Examiner Marble: In carrying on those negotiations with Mr. Harriman, who represented you?

Mr. Fullerton: Mr. Mallard.

Examiner Marble: Were you familiar with the operations of the Gulf & Sabine Railroad?

Mr. Fullerton: Not with the actual operations.

Examiner Marble: The physical operations?

Mr. Fullerton: No.

Examiner Marble: Is there someone who is going to testify that is?

Mr. Saunders: Yes, Mr. Fleishel, our general manager.

Examiner Marble: I will gain nothing by examining this witness along that line

Mr. Saunders: Nothing at all.

Examiner Marble: What territory do your timber holdings around Fullerton cover in extent?

Mr. Fullerton: Well, we have got in the neighborhood of 140,000 acres, that is, the company owns that much.

Examiner Marble: Would you with a pencil on this map indicate roughly the outline of that territory, or someone else?

6371 Mr. Saunders: Mr. Fleishel will do it for you, Mr. Marble.

Examiner Marble: I will ask him to do it right now. The Examiner suggests to me that it would be well to have in the record a map which will indicate these facts which I have got up here in this informal way.

Mr. Fleishel: You mean a map showing the timber?

Examiner Marble: Yes, showing the railroad and the timber lands.

Mr. Fleishel: I have a railroad map here but I have not got the timber on it. But we will give you a timber map.

Examiner Marble: Showing both the timber cut over and still there.

Mr. Fleishel: Do you want that shown separately?

Examiner Marble: You may show those which still contain timber, and then show those on the map from which the timber has been removed.

Mr. Fleishel: This is merely a profile of the railroad showing the curvature. (Indicating profile.)

Examiner Marble: You will indicate it with red ink?

Mr. Fleishel: Yes, sir.

Examiner Marble: You have given the capital of this line as $100,000.

6372 Mr. Fleishel: Yes.

Examiner Marble: Was that all paid in at par?

Mr. Fullerton: Yes, sir.

Examiner Marble: And you have issued some bonds?

Mr. Fullerton: Yes, sir.

Examiner Marble: How much?

Mr. Fullerton: $300,000.

Examiner Marble: Were they sold at par?

Mr. Fullerton: No, sir.

Examiner Marble: What figure were they sold at?

Mr. Fullerton: About 50 per cent.

Examiner Marble: What is their rate of interest?

Mr. Fullerton: They are 5 per cent bonds.

Examiner Marble: That means that they are issued on a 50 per cent basis then?

Mr. Fullerton: Yes, sir—Well, yes, we got a little over 50 per cent for them.

Examiner Marble: That bond discount is carried in your account and reported to the Commission?

Mr. Fullerton: Yes, it is being distributed, a portion of it each year.

Examiner Marble: Distributed on what items?

6373 Mr. Fullerton: It is charged against the earnings, depreciation. It would have been too much to have charged off all at one time, so we charged it off from year to year.

Examiner Marble: Did you distribute it over the life of the bonds?

Mr. Fullerton: I don't know about that, whether it exceeds the life of the bonds or not.

Examiner Marble: What is the life of the bonds?

Mr. Fullerton: I think the bonds will mature in 1928. I rather think that they extend over the entire life of the bonds.

Examiner Marble: Who purchased those bonds?

Mr. Fullerton: The Gulf Lumber Company.

Examiner Marble: I think I will excuse Mr. Fullerton now, asking him to remain, of course, and put Mr. Fleishel on as to the practical operation of this road, unless there is any cross-examination that has not already been brought.

Mr. Cowan: No, I want to ask Mr. Fullerton the general line of questions we took up with Mr. Johnson yesterday, but we can do that better after we get through with all these details.

Examiner Marble: Very well, if everybody is agreed as
6374 to that.

(Witness excused.)

M. L. FLEISHEL, was called as a witness, and having been duly sworn, testified as follows:

Direct examination:

Examiner Marble: Will you give your name to the reporter?

Mr. Fleishel: M. L. Fleishel.

Examiner Marble: What is your present position, Mr. Fleishel?

Mr. Fleishel: I am general manager of the Gulf & Sabine River Railroad.

Examiner Marble: Have you any other business than that?

Mr. Fleishel: Yes, sir, I am general manager of the Gulf Lumber Company also.

Examiner Marble: As general manager of the Gulf Lumber Company what are your duties?

Mr. Fleishel: Well, I have charge of all operations.

Examiner Marble: All operations?

Mr. Fleishel: Yes, sir, outside of executive matters.

Examiner Marble: You have control of the routings of shipments made by the Gulf Lumber Company?

6375 Mr. Fleishel: No, sir. Those orders come to us routed. We have published tariff rates——

Examiner Marble: Who do those orders come to you from, from the Chicago Lumber & Coal Company?

Mr. Fleishel: Some of them, chiefly, they sell the bulk of it, the Chicago Lumber & Coal Company of Texas, and the Chicago Gulf Export Lumber Company.

Examiner Marble: These are selling agencies of the same general interests?

Mr. Fleishel: Yes, sir.

Examiner Marble: They sell practically all of your lumber?

Mr. Fleishel: They sell the major portion of it.

Examiner Marble: Would you put it as high as 95 per cent?

Mr. Fleishel: I would not say so.

Examiner Marble: More than 90?

Mr. Fleishel: Probably 90, yes, sir.

Examiner Marble: How long have you been in this position of general manager of these two concerns?

Mr. Fleishel: Ever since they were organized.

Examiner Marble: Were you connected with the enterprise before the corporations were organized?

Mr. Fleishel: Yes, sir.

6376 Examiner Marble: Did you have to do with the location there?

Mr. Fleishel: Yes, sir.

Examiner Marble: Did you have to do with any negotiations for rail facilities?

Mr. Fleishel: Yes, sir.

Examiner Marble: Do you know of any offer by the Santa Fe to pay divisions to the Gulf & Sabine River?

Mr. Fleishel: No, sir.

Examiner Marble: On any terms, whatever?

Mr. Fleishel: No, sir.

Examiner Marble: None were made to you?

Mr. Fleishel: No, sir.

Examiner Marble: Nor to anyone else that you know of?

Mr. Fleishel: Never heard of it.

Examiner Marble: Was there any refusal to give you those divisions?

Mr. Fleishel: Indirectly, I think there was.

Examiner Marble: To whom were those refusals given?

Mr. Fleishel: They were never given, of course, any more than looking toward them to this extent. Before the railroad was completed I went over to Galveston to see Mr. Marsh and Mr.
6377 Pettibone, in regard to some construction material that was delayed. The road in fact had been all laid before I got there, that is, all except the laying of the steel; and I had no authority at that time really to make any divisions, but in the course of conversation there probably was some talk with reference to putting in divisions.

Examiner Marble: Did they refuse to put in divisions?

Mr. Fleishel: I don't know that they did. I think they did.

Examiner Marble: Your impression is that they did?

Mr. Fleishel: Yes, sir, that is my impression, but they had already indicated their intention that they would not.

Examiner Marble: Yes; to you?

Mr. Fleishel: I don't know how much authority the people had that indicated it.

Examiner Marble: You took that as a refusal from the Santa Fe to put in those rates?

Mr. Fleishel: Yes, sir.

Examiner Marble: You took it as their refusal to put in any divisions then?

Mr. Fleishel: In a general way, yes, sir.

Examiner Marble: Did you take it as a refusal to put in divisions at any time?

6378 Mr. Fleishel: No, sir, my impression was that they intimated that they never would do it.

Examiner Marble: Never would do it?

Mr. Fleishel: No, sir.

Examiner Marble: You went away with that impression?

Mr. Fleishel: Yes, sir.

Examiner Marble: Was it after that that the negotiations with the Southern Pacific interests were first made?

Mr. Fleishel: I was not positive as to that because I did not conduct those negotiations.

Examiner Marble: That was before the road was built that you got that impression from them?

Mr. Fleishel: Yes, sir.

Examiner Marble: Before the mill was built?

Mr. Fleishel: Yes, sir. We also had some pretty extensive railroad plans, and they were not disposed to recognize us as a railroad, or in fact to take us at all seriously.

Examiner Marble: Are you familiar with any offer or proposition to build the Santa Fe to Fullerton?

Mr. Fleishel: Absolutely none, no, sir.

Examiner Marble: You are not familiar with that?

6379 Mr. Fleishel: No, sir, never heard of it.

Examiner Burchmore: The line to the north of Nitram, belonging to the Gulf & Sabine River Railroad was not constructed, was it, until after the other railroads got into Nitram?

Mr. Fleishel: Yes, sir; built before the Santa Fe got there.

Examiner Burchmore: Where did they get the steel?

Mr. Fleishel: I stated in the beginning, our line bought the steel.

Examiner Marble: You got the roadbed ready?

Mr. Fleishel: That was the reason I went to Galveston at that time, to see if we could not hurry things up; we could not get it in there, but the bridges and the grades were all built before they got there, and we were operating it into Fullerton within two weeks of their rail reaching the junction.

Examiner Marble: Do you know the amount of the divisions you are now receiving?

Mr. Fleishel: Yes, sir.

Examiner Marble: Have you a detailed statement of those with you?

Mr. Fleishel: Well, no, I haven't a copy of the division sheets, but I can tell you what they are.

6380 Examiner Marble: What are they?

Mr. Fleishel: On lumber, from one to four cents, a maximum of four and a minimum of one. On classes and commodities it is 25 per cent of the Lake Charles proportion.

Examiner Marble: 25 per cent of the Lake Charles proportion?

Mr. Fleishel: Yes, sir, either in or outbound.

Examiner Marble: That is to say, it is 25 per cent of the amount allotted for transportation north of Lake Charles, Louisiana to Fullerton?

Mr. Fleishel: That is the idea, yes, sir.

Examiner Marble: Now then, will you distinguish between the one cent business and the four cent business? On what shipments do you receive only one cent?

Mr. Fleishel: Well, business on which there is a short coast rate. Sabine Pass, Port Arthur, Galveston, and New Orleans.

Examiner Marble: Is that true on Domestic shipments to those points, as well as Export?

Mr. Fleishel: Yes, sir—that is, now I think so, but I would not be positive as to that. I think that is a fact, yes, sir. It does

6381 not make any difference anyway, because we don't ship anything for local consumption.

Examiner Marble: You said the division was from one to four cents?

Mr. Fleishel: Yes, sir.

Examiner Marble: What is your next figure above one cent?

Mr. Fleishel: Four cents on lumber.

Examiner Marble: On mill business, and on lumber you receive one cent, and on some business you receive four cents?

Mr. Fleishel: Yes, sir.

Examiner Marble: There is no figure in between?

Mr. Fleishel: No, sir.

Examiner Marble: Then on all shipments except to nearby coast points you receive four cents?

Mr. Fleishel: No, sir, on points in Louisiana east of Lake Charles, and also in Texas east of Houston, to which no lumber moves, however, the division is to be agreed upon in case there is any business offered, but there are no settled divisions, there are no division sheets at present covering business in that particular territory, and no business offered.

Examiner Marble: On business you actually move you receive four cents on shipments to all points except these Gulf
6382 Coast points that you named?

Mr. Fleishel: Yes, sir.

Examiner Marble: Suppose the business is routed through a nearby port to a coast point beyond, does that affect your division?

Mr. Fleishel: I don't follow your thought.

Examiner Marble: Take a shipment to New Orleans to be put on a vessel and carried to some coast point beyond New Orleans?

Mr. Fleishel: That in our idea is an export shipment. I am referring to Gulf points as well as export, if it goes to a vessel for movement to coast points such as New York, Boston or Philadelphia, or some such place, those are export and the same division sheets and tariffs apply.

Examiner Marble: You get what on those shipments?

Mr. Fleishel: One cent per hundred.

Examiner Marble: I mean from Fullerton to New York via New Orleans and Southern Pacific steamers.

Mr. Fleishel: We carry a division of one cent.

Examiner Marble: You would not get a division of four cents on that?

Mr. Fleishel: No, sir.

Examiner Marble: Did you ever get four cents on such
6383 shipments?

Mr. Fleishel: No, sir.

Examiner Marble: If the business were routed all rail to New York, what division do you get?

Mr. Fleishel: We have never shipped any. We are at such a marked disadvantage in the rate we have never shipped any.

Examiner Marble: What is your disadvantage in the rate?

Mr. Fleishel: I think about 15 or 20 cents a hundred.

Examiner Marble: You have not arranged joint rates through all-rail?

Mr. Fleishel: Not that I know of. Those tariffs may cover that, but I don't know. We have never shipped a car and probably never will.

Examiner Marble: It would make no difference in your divisions on shipments moving through gulf ports, whether the lumber was routed to the port and reshipped, or routed through the port, continuous transportation, to some point beyond?

Mr. Fleishel: Well, I think it would if I recall correctly. These tariffs provide a separate rate for lumber going to New Orleans or Galveston and when they rebill the same the rate is higher.

6384 Examiner Marble: Somewhat higher than the export rate?

Mr. Fleishel: Yes, sir, it is higher. I think it is probably two or three cents, maybe four cents higher. However, I don't know about that.

Examiner Marble: These shipments going beyond would be in the first instance so routed to get that lower export rate?

Mr. Fleishel: Well, we have never shipped anything beyond except to Boston, that is to New Orleans, consigned to New Orleans. These waybills for shipment to New Orleans must state that they are for export. There is also a custom with the Southern Pacific line whereby they charge a local rate in on shipments that move to New Orleans and refund if they get vessel receipts, showing that the product has moved outbound.

Examiner Marble: Do you actually ship through New Orleans to New York?

Mr. Fleishel: We have, yes, sir.

Examiner Marble: Any considerable business?

Mr. Fleishel: No.

Examiner Marble: To Boston?

Mr. Fleishel: No, not through New Orleans, through Port Arthur, chiefly.

6385 Examiner Marble: On that you get one cent?

Mr. Fleishel: Yes, sir.

Examiner Marble: Has there been any considerable business there?

Mr. Fleishel: Yes, there was quite a bit; there has not been so much recently.

Examiner Marble: Where does the bulk of your business go now?

Mr. Fleishel: Well, the bulk of it goes to foreign points I should say, we ship everything we can export.

Examiner Marble: You mean you prefer to sell export?

Mr. Fleishel: Yes, sir.

Examiner Marble: Why is that?

Mr. Fleishel: Because we get more money for the lumber.

Examiner Marble: A better price for the lumber?

Mr. Fleishel: Usually; it is the kind of material we like to get.

Examiner Marble: Will they take a different grade of lumber?

Mr. Fleishel: Some, yes.

Examiner Burchmore: A better grade or a poorer?

Mr. Fleishel: Better. Those fellows abroad are pretty

6386 smart; they get the best.

Examiner Marble: So that these grades of lumber you prefer to sell——

Mr. Fleishel: I mean that in a broad sense. We send them largely timber, large square timber.

Examiner Marble: Have you in your possession division sheets governing these joint rates to which your road is a party?

Mr. Fleishel: No, I have not. I think they are on file with the Commission.

Examiner Marble: Are you familiar with them?

Mr. Fleishel: Reasonably so. I do not handle them, you understand. We have an office force there in the railroad office that handles this matter, and it is only in a general way that I [illegible] about it.

Examiner Marble: Are you familiar with the division of this 16 cent rate from your points through to points on the Illinois Central and connections beyond?

Mr. Fleishel: Yes, sir.

Examiner Marble: Do you get a division of four cents out of that?

Mr. Fleishel: Yes, sir.

6387 Examiner Marble: Do you know what the Lake Charles & Northern would get for the haul from Fullerton to Lake Charles?

Mr. Fleishel: I should think four cents. Eight cents for the haul, and we get four and they get four.

Examiner Marble: Do you know what the road from Lake Charles to New Orleans would get?

Mr. Fleishel: No, I don't know that.

Examiner Marble: Or the Illinois Central?

Mr. Fleishel: No. It is rather an extreme case, though, because the freight rate there carries for 16 cents to Cairo proper, which is a basing point.

Examiner Marble: Don't you mean that the four cent division is from Fullerton to New Orleans, or from Nitram to New Orleans, and a 4½ cent division, rather, isn't that the case?

Mr. Fleishel: I think not; in fact I am quite sure that it is not.

Examiner Marble: And 7½ to the Illinois Central there at New Orleans?

Mr. Fleishel: I am quite sure that is not so. In the first place, I don't think we carry the division to Cairo proper, because it is a basing point, taking anywhere from 22 to 26 cents, and a higher rate.

6388 Examiner Marble: Are you familiar with the Southern division sheet, No. 943?

Mr. Fleishel: No, I don't know that I have ever seen it.

Examiner Marble: Were you familiar with the division of the 23 cent rate?

Mr. Fleishel: Say to an Illinois point?

Examiner Marble: Wherever they might be on the line of the Illinois Central.

Mr. Fleishel: No, I don't know that I am. I have at one time seen those Southern Pacific Division sheets, but it is purely memory with me. I don't know, but my impression is that on those rates that move through a 16 cent Cairo basis they are divided as

between our line and the L. C. & N., four cents each. Now, whether that is right or not, I do not know, but that is my impression.

Examiner Marble: In order that the gentleman may be apprised of what I am trying to get at, our information is that on say a 16 cent rate from Fullerton to a point on the Illinois Central, the division is four cents to the Gulf & Sabine River, 4½ cents to the Southern Pacific interests, from Nitram to New Orleans, and 7½ cents for the Illinois Central beyond, and our information
6389 further is that the division of the Lake Charles & Northern of that 4½ cents, is 1.1, while the road from the Lake Charles & Northern to New Orleans is 3.4 cents, giving us from a 16 cent rate to a 40 cent rate for the Lake Charles & Northern Division from Nitram to Lake Charles.

Now, that your memory has been refreshed respecting that, what have you to say concerning it?

Mr. Fleishel: I would be willing to state positively that I believe there never is a carload of lumber moved from a point on our line to a 16 cent point on the Illinois Central, not even one.

Examiner Marble: I am saying that that covers the rates up to 40 cents?

Mr. Fleishel: I don't know anything as to that, but I do not believe that there has ever been a carload of lumber from a point on our line to a point on the Illinois Central line that carried a less rate than 21 cents.

Examiner Marble: You have no point on——

Mr. Fleishel: Unless it be St. Louis proper. I don't think we have ever shipped a carload off our line to Cairo proper. We probably have shipped a few cars to St. Louis, but I am positive that we have not shipped any to Cairo proper.

6390 Examiner Marble: I have said nothing about the 16 cent rate to be made that does not apply equally on a 21 or 23 cent rate.

Mr. Fleishel: As to the proper division, I don't know about that.

Examiner Marble: I started with the 16 cent rate, because it was at the top of the sheet, and for no other reason.

Examiner Burchmore: Now, the 16 cent rate only applies to traffic moving via Cairo and beyond, taking that 16 cent rate in combination with some other rate beyond?

Mr. Fleishel: I suppose so, but that is made over the Illinois Central.

Examiner Marble: The Illinois Central and connections beyond.

Mr. Fleishel: Yes, Cairo would be a very different matter.

Examiner Marble: You are familiar with those conditions?

Mr. Fleishel: No, only I have seen frequently divisions—but this is purely memory—which gave two and a half.

Examiner Marble: Now then, I will ask that the Commission secure this Southern Pacific Division sheet and put it in
6391 the record.

Examiner Burchmore: Very well, that may be done.

Examiner Marble: And as your road is a party to that division, I will ask you to send it in.

Mr. Fleishel: All right, sir, if they will give it to us.

Examiner Marble: You are entitled to it.

Mr. Fleishel: I have one copy.

Examiner Marble: You haven't it here?

Mr. Fleishel: No.

Examiner Burchmore: You can make a copy of it?

Mr. Fleishel: I haven't it here. It is in our general office at the mill.

Examiner Marble: Does the Lake Charles & Northern develop any other business at Nitram than what is received by your line?

Mr. Fleishel: Practically none.

Examiner Marble: Do you know whether it has trackage rights running to intermediate points between De Ridder and Nitram?

Mr. Fleishel: Yes, sir, it does.

Examiner Marble: They have the right to receive freight at all points?

Mr. Fleishel: They have and do every day.

6392 Examiner Burchmore: Well, is that an unlimited right to go out there and take way freight between points—at points between Nitram and De Ridder that is destined, for example, to Kansas City or some other place?

Mr. Fleishel: Yes, sir, they do it every day in the week.

Examiner Burchmore: They can take traffic anywhere in the country?

Mr. Fleishel: I think it is provided that they cannot accept business between local points on the Santa Fe. For instance, I don't think they could take business at Cravens or De Ridder, but they can take business for Cravens to Lake Charles, or Cravens to New Orleans, or St. Louis or Chicago, or any other point except local points—except where the Santa Fe have rails, all the way.

Examiner Marble: Could it for Chicago, then?

Mr. Fleishel: Oh, yes.

Examiner Marble: Although the Santa Fe have rails all the way?

Mr. Fleishel: Yes, sir, they do it every day.

Examiner Marble: They do receive some lumber at Cravens from the Pickering concern?

Mr. Fleishel: Quite a bit, yes.

6393 Examiner Marble: Do you know how much they get on that?

Mr. Fleishel: Mr. Church testified to that this morning.

Examiner Marble: I think it was testified this morning that you got two and a half a car.

Mr. Fleishel: That is just a switching charge. It is on local freight out of Cravens.

Examiner Marble: You say that the Pickering people receive two and a half only?

Mr. Fleishel: Two and a half. I only know what I heard this morning. I have understood all along that they did. I did not

know that they were making that switching charge, but Mr. Church testified this morning that they did.

Examiner Marble: How far is their mill from Cravens?

Mr. Fleishel: Right in Cravens.

Examiner Marble: How far is it from the junction with this track?

Mr. Fleishel: They use the Santa Fe track. It is just as close as the Santa Fe is. The L. C. & N. does not own any track between Lake Charles and Cravens or De Ridder. It operates entirely over the Santa Fe tracks. Wherever the Santa Fe goes, the L. C. & N. goes.

Examiner Marble: I am talking about the length of the
6394 haul by the Pickering interests for which this two dollars and a half a car is paid. Are you familiar with that?

Mr. Fleishel: Yes, I should say it was a quarter of a mile, probably a half. I would not guess over that anyhow.

Examiner Marble: You would not say a mile and a half?

Mr. Fleishel: I would not, no, sir.

Examiner Marble: This rate that you have, that you have an allowance of four cents, is that on lumber or on the lumber and the logs?

Mr. Fleishel: On the lumber we charge and waybill the same. The logs that went into the mill were paid for, and the transaction ends right there.

Examiner Marble: What rate do you charge on logs?

Mr. Fleishel: $2.50 a car, and a copy of that tariff is filed with the Commission.

Examiner Marble: You regard that as an intrastate movement to the mill?

Mr. Fleishel: Yes, sir.

Examiner Marble: Why do you file them with the Interstate Commerce Commission?

Mr. Fleishel: I cannot answer as to that. We all have our tariffs——

6395 Examiner Burchmore: It is not filed with an I. C. C. number, is it?

Mr. Fleishel: Yes, sir, it is.

Examiner Marble: What is the average haul on those logs?

Mr. Fleishel: Oh, I should say four miles, right now.

Examiner Marble: Does the railroad company undertake the expense of maintaining the logging spurs to the trees?

Mr. Fleishel: No, sir, has nothing to do with it.

Examiner Marble: The logging company maintains those?

Mr. Fleishel: Yes, sir.

Examiner Marble: Why do you have that done by the logging company instead of the railroad company taking it and operating the road?

Mr. Fleishel: Well, the railroad has nothing to do with the spur tracks. We do not operate anything but main line tracks, operate those for our own traffic.

Examiner Marble: Do you cover that as a railroad proposition?
Mr. Fleishel: No, sir.
Examiner Burchmore: No temporary tracks?
Mr. Fleishel: No, sir.

Examiner Marble: Does the railroad take any burden of
6396 putting down temporary tracks afterwards to be taken up?

Mr. Fleishel: No, the only thing we do, we put in switch points; wherever they can show us that they have got business enough to justify us putting down a switch point for them to come out, we do it.

Examiner Marble: Your road regards the business on the timber tracks as a logging proposition rather than a railroad proposition?

Mr. Fleishel: Yes, they do not have anything to do with the railroad business.

Examiner Marble: Does the railroad furnish the equipment and cars that run——

Mr. Fleishel: Yes, sir, we furnish the cars.

Examiner Marble: But no locomotives?

Mr Fleishel: Well, we lease them one locomotive and charge them ten dollars a day.

Examiner Marble: Does that include the wages of the crew?

Mr. Fleishel: No, no; they only require one locomotive, and so we give it to them, but we charge them ten dollars a day. Sometimes they have got one engine, sometimes another. They have got to have an engine, and they don't need but one at a time.

6397-8 Examiner Marble: You are not actually engaged in construction operation on the two mile extension?

Mr. Fleishel: Not just at present. We are building the other way now. We have our force on the other line.

Examiner Marble: You have drawn the outline of the land owned by the lumber company here, and which entirely encloses both these extensions as they go out, they are situated entirely within the land of this lumber company?

Mr. Fleishel: Just at present, yes, sir.

Examiner Marble: So there is no business developed by those extensions at the present time?

Mr. Fleishel: Yes, sir, there has been some.

Examiner Marble: Except logging business and business in forest products for the lumber company?

Mr. Fleishel: Yes, sir, there has been some.

Examiner Marble: What other business is there?

Mr. Fleishel: We have hauled hardwood logs out there for other people.

Examiner Marble: Logs developed from the land of this same lumber company?

Mr. Fleishel: In some cases yes, and in some cases no, sir.

Examiner Burchmore: Do they haul hardwood logs by
6399 wagon to your road?

Mr. Fleishel: Yes, sir.

Examiner Marble: How far would they haul hardwood?
Mr. Fleishel: Oh, not very far, along that dry creek bottom there.
Examiner Marble: How many feet?
Mr. Fleishel: They don't have to haul them very far.
Examiner Marble: How many logs do you so carry?
Mr. Fleishel: Not very many. We do not bother with the hardwood ourselves.
Examiner Marble: What has been done beyond the construction of this two miles of road from Fullerton northeast on this proposed extension to Alexander?
Mr. Fleishel: Nothing except the survey.
Examiner Marble: Has the survey been made?
Mr. Fleishel: Yes, sir.
Examiner Marble: How serious a survey has been made?
Mr. Fleishel: Very serious, indeed.
Examiner Marble: Has the right of way been secured?
Mr. Fleishel: Not all of it.
Examiner Marble: Any of it?
Mr. Fleishel: We have had negotiations for right of way,
6400 practically all the way.
Examiner Marble: Have you secured any beyond the two miles?
Mr. Fleishel: No, we have arrangements but we haven't got any yet.
Examiner Marble: Beyond your own line?
Mr. Fleishel: Yes, sir.
Examiner Marble: But you have not secured any beyond your own line?
Mr. Fleishel: No, we have not taken the deeds to it.
Examiner Marble: Have you closed up?
Mr. Fleishel: No, sir.
Examiner Marble: Are those lands generally owned by other lumber companies up toward Alexander?
Mr. Fleishel: Yes; one interest down in Alexander.
Examiner Marble: What interest is that?
Mr. Fleishel: The Weyerhauser interests, they are not operating, however. Most of that land in between Pine Timber and Alexander is a fertile valley, there is no timber on it.
Examiner Marble: This extension is northwest that is going to Leesville?
6401 Mr. Fleishel: Yes, sir.
Examiner Marble: Why is the road from Stables shown as if you were going to connect up with that?
Mr. Fleishel: Because we are going to do it.
Examiner Marble: Have you secured that right?
Mr. Fleishel: Yes, sir.
Examiner Marble: From the present owners?
Mr. Fleishel: Yes, sir.
Examiner Marble: That would take you to Leesville?
Mr. Fleishel: That will take us to Leesville. We are going into Leesville over their line. They have already got five miles of it built.

Examiner Marble: That road also goes to Stables, doesn't
6402 it?

Mr. Fleishel: No, we are going to both places.

Examiner Marble: How are you going to Stables?

Mr. Fleishel: We branch off about three miles out here and run southeast of Leesville there. The reason I did not put it on there is because that division of the road is not chartered.

Examiner Marble: You are going to branch off and go into Stables and you say it is about three miles from some point on that road. This map is correct. It shows that road going into Stables, when as a matter of fact it runs into Leesville.

Mr. Fleishel: We did not intend that.

Examiner Marble: What road is this here? What is the name of that? (Indicating on map.)

Mr. Fleishel: That is the Sabine—Gulf & Sabine River.

Examiner Marble: The same one as between——

Mr. Fleishel: It was originally chartered as the Gulf & Sabine River.

Examiner Marble: Is that owned by the same corporation that owns the road from Fullerton to Nitram?

Mr. Fleishel: Yes, sir; it is part and parcel of it.

6403 Examiner Marble: That line runs to Stables through your timber lands?

Mr. Fleishel: Yes, sir.

Examiner Marble: For what distance?

Mr. Fleishel: Oh, about nine miles probably, nine and a half.

Examiner Marble: What corporation owns those timber lands?

Mr. Fleishel: The Gulf Lumber Company the greatest portion of them.

Examiner Marble: There is a logging road in that timber at the present time?

Mr. Fleishel: Yes, sir. Of course we consider it part of our main line.

Examiner Marble: Now, you have shown a proposed extension of that road down to the Sabine River opposite Orange?

Mr. Fleishel: East Orange.

Examiner Marble: On here you have just indicated and mentioned the roads of a number of other concerns.

Mr. Fleishel: The Lutcher & Moore Lumber Company.

Examiner Marble: Do they know they are to be a part of this line?

Mr. Fleishel: No, they don't and we don't either. We
6404 have had it up, however, we have been discussing it.

Examiner Marble: Then when you have marked this line from Baylor down to East Orange as constructed, you mean that there is a railroad there that somebody owns that you are going to get if you can?

Mr. Fleishel: That is it exactly.

Examiner Marble: In the same way with the stretch of track from Merryville north ten miles?

Mr. Fleishel: Yes, sir.

Examiner Marble: You do not own that road?
Mr. Fleishel: Oh, no.
Examiner Marble: Who does that belong to?
Mr. Fleishel: Belongs to the West Lumber Company.
Examiner Marble: Is it a logging road?
Mr. Fleishel: Yes, sir, laid with 60 pound rails.
Examiner Marble: Do they know that they are to be a part of this extension?
Mr. Fleishel: The same situation exactly as the other.
Examiner Marble: You are going to get it if you can?
Mr. Fleishel: Yes, sir, we have been negotiating with them.
Examiner Marble: This road to the north from the connection with the river is a logging road also, is it not?
6405 Mr. Fleishel: Which is that?
Examiner Marble: This part that you have marked as constructed, the extreme southern portion.
Mr. Fleishel: It belongs to the Lutcher and Moore Lumber Company.
Examiner Marble: That is their logging road?
Mr. Fleishel: I don't know whether that road is chartered or not?
Examiner Marble: That is our information, that it is not.
Mr. Fleishel: I think it is not.
Examiner Marble: Does not operate as a common carrier.
Mr. Fleishel: I am sure it does not.
Examiner Marble: What about this line to Merryville, that is a logging road also?
Mr. Fleishel: Yes, sir, that connects with the Santa Fe.
Examiner Marble: Do you happen to know whether or not they are incorporated?
Mr. Fleishel: I don't think they are.
Examiner Marble: They do not get any division?
Mr. Fleishel: I think not.
Examiner Marble: Is the Leesville road incorporated that you mention?
Mr. Fleishel: Yes, sir, it was. They are not getting any
6406 divisions, however.
Examiner Marble: Are they operating as a common carrier?
Mr. Fleishel: No, they are not.
Examiner Marble: When were they built?
Mr. Fleishel: Ten years ago. They were operating out the other way and possibly did.
Examiner Marble: When was it built?
Mr. Fleishel: I think about eight or nine years ago.
Examiner Marble: When was the present line built?
Mr. Fleishel: Within the last two years. I don't think they have ever operated as a common carrier.
Examiner Marble: What is the distance from Nitram to De Ridder?
Mr. Fleishel: It is nineteen and some fraction miles.

Examiner Marble: Covered by the tracks of the Santa Fe railroad?

Mr. Fleishel: Yes, sir.

Examiner Marble: The Lake Charles & Northern use their tracks?

Mr. Fleishel: Yes, sir.

Examiner Marble: What is the distance from De Ridder to Lake Charles?

Mr. Fleishel: Forty-two miles I think.

6407 Examiner Marble: Covered by the tracks of the Lake Charles & Northern?

Mr. Fleishel: Yes, sir.

Examiner Marble: Do you know the distance from Lake Charles to New Orleans?

Mr. Fleishel: 222 miles, I think.

Examiner Marble: Why do you show these proposed lines from Orange all the way up to Alexander as a part of this Gulf & Sabine River proposition on this hearing?

Mr. Fleishel: Because I wanted to show them where our plans were.

Examiner Marble: Well now, will you tell us what the significance of that is?

Mr. Fleishel: The significance is that we expect to be operating a railroad from east Orange direct to Alexander, Louisiana, in order to connect up with about seven other railroads. There is a strong demand for a railroad between, and east and west line in there. There is no means of communication now between the east and west part of that state anywhere. There is an urgent demand for an east and west line in that part of the state. Anybody going to the state capital, it takes longer than it does to go to Memphis or St. Louis.

6408 Examiner Marble: Now, there are roads practically as you suggest, in existence between Alexander and Orange at the present time, aren't there?

Mr. Fleishel: Not that short, nor anywhere near it, as the line we expect to build.

Examiner Marble: But I am speaking of the line between the two points.

Mr. Fleishel: Not that I know of. There is a road between Alexander and Lake Charles, a short road, which comes in and is a part of the Iron Mountain system.

Examiner Marble: And another between Lake Charles and Orange?

Mr. Fleishel: Well, it is the main line of the Southern Pacific.

Examiner Marble: Take those two together, that is even a shorter road than the one that you speak of, is it not?

Mr. Fleishel: I think not; it may be.

Examiner Marble: Maybe it is, but in any event there is not much difference.

Mr. Fleishel: But there is a vast territory in between those two railroads that has no communication with the world?

Examiner Marble: Well now, just where is that territory?

6409 Mr. Fleishel: It is between Leesville and Alexander particularly. There is about thirty miles of territory there that has no railroad at all, and I might say also that that territory west of Alexander there is the richest farming part of the state, there is no timber on it.

Examiner Marble: Is it your theory that the tonnage in that territory will move to the west and southwest?

Mr. Fleishel: I think a part of it will.

Examiner Marble: Or will it move generally to the east?

Mr. Fleishel: I think it will move out through Texas all the mills in that country, Alexander and in through there, take the shorter route to the coast.

Examiner Marble: Waiving the matter of the feasibility of that route at the present time, the entire earnings of the Gulf & Sabine River Road on interstate shipments are realized by this line from Fullerton to Nitram, 6.4 miles.

Mr. Fleishel: Yes, sir.

Examiner Marble: And as the situation now stands, all of the service which secures those earnings on interstate shipments is rendered by that road from Fullerton to Nitram?

Mr. Fleishel: Yes, sir.

Examiner Marble: At Fullerton and at Nitram and in

6410 between the two points?

Mr. Fleishel: Yes, sir.

Examiner Burchmore: There has been no testimony offered as to the tonnage and earnings of this road, if I recollect the testimony correctly. Will you tell us what your total freight earnings were last year, freight tonnage?

Mr. Fleishel: Do you want the freight first? Do you want all the revenue itemized?

Examiner Burchmore: Yes, in that detail, if you have it.

Mr. Fleishel: Freight revenue, $110,941.93. This is the fiscal year ending June 30, 1910. Passenger revenue $3,809.25; Mail $220.65; Express $735.83; Telegraph and telephone service $652.08, total $116,359.71. Do you want the operating expenses?

Examiner Burchmore: What were the total operating expenses, just the total?

Mr. Fleishel: $103,072.21.

Examiner Burchmore: Have you separated the earnings from the two different divisions so that we can tell what you earned on the Fullerton division, and what was earned on the Stables division?

Mr. Fleishel: I don't think we have it separate, we have not here.

6411 Examiner Marble: Can you give us a statement of the earnings of the lines from Fullerton to Nitram?

Mr. Fleishel: Yes—I don't know that I can separate that for you for this reason. The railroad operates as a railroad, as an entirety. We do not *kssp* train crews separate, but use them wherever we can use them; and the same way with the terminal charges, switching and all that, things of that kind.

Examiner Burchmore: Your total freight earnings were $110,000?

Mr. Fleishel: Yes.

Examiner Burchmore: What is your impression as to the amount of that freight earnings that were earned on the Fullerton division?

Mr. Fleishel: I should think of the gross, probably $70,000 maybe seventy-five, maybe eighty, I don't know.

Examiner Burchmore: How much were the passenger earnings earned on the Fullerton division?

Mr. Fleishel: All of it.

Examiner Burchmore: And the mail?

Mr. Fleishel: All of it.

Examiner Burchmore: And the express?

6412 Mr. Fleishel: All of it.

Examiner Burchmore: Telephone and telegraph?

Mr. Fleishel: All of it.

Examiner Burchmore: What was your total of freight tonnage for the fiscal year?

Mr. Fleishel: 380,056 tons.

Examiner Burchmore: On which you earned $110,941?

Mr. Fleishel: Gross. Considerable of that was in less than carloads, though.

Examiner Burchmore: How much of that was logs and lumber?

Mr. Fleishel: Originating on the road, originating on our line, do you want it itemized the same way?

Examiner Marble: Yes.

Mr. Fleishel: Stone, sand and so forth, 157,000 tons; lumber 370,164; naval stores 3,650; iron 22; castings and machinery 6; household goods, one; merchandise, 35; miscellaneous, 795.

Now, tonnage originating on other lines, agricultural products, 968 tons.

Examiner Burchmore: This rich farming country originates no agricultural products?

Mr. Fleishel: There are no farms over the line of our road

6413 there except in small tracts?

Examiner Burchmore: Then I did not follow the testimony.

Mr. Fleishel: I said the line between Leesville and Alexander which we propose to develop. Then, animals 90 tons; Mining 119 tons; Manufactured products 2,958 tons; Merchandise 1,086 tons, Miscellaneous 5 tons; Total 5,226 tons. That was all tonnage originating on that line.

Examiner Burchmore: Let me ask you how much of this 370,164 tons of lumber came from the mills of the Gulf Lumber Company?

Mr. Fleishel: Well, practically all of it, the biggest portion of it.

Examiner Burchmore: I do not see any logs included in that statement.

Mr. Fleishel: I think that the logs—I think that the first item there includes logs.

Examiner Burchmore: What first item?

Mr. Fleishel: 270,164.

Examiner Burchmore: What about those naval stores, 3,650?

Mr. Fleishel: That is turpentine and resin, I believe.

Examiner Burchmore: Shipped for the Gulf people?

Mr. Fleishel: Yes, sir.

6414 Examiner Burchmore: 795 tons of miscellaneous freight, 35 tons of merchandise moving outbound. Who shipped that stuff?

Mr. Fleishel: Different people. I don't believe we shipped any of it.

Examiner Burchmore: You think the Gulf Lumber Company did not have anything to do with that?

Mr. Fleishel: No, sir.

Examiner Marble: What was it?

Mr. Fleishel: I don't know what that was, to tell you the truth. I don't have much knowledge of that, because we have two men in our office there that do nothing else.

Examiner Burchmore: I would like to have now, your opinion or your estimate or the actual figures if you have them, as to the amount of tonnage inbound and outbound handled for or on account of the Gulf Lumber Company, and the amount handled for other people.

Mr. Fleishel: I expect 90 per cent possibly for the Gulf Lumber Company.

Examiner Burchmore: Will you file with the Commission, if it is possible without too great inconvenience, a statement of the tonnage and revenues of freight inbound and outbound to and

6415 from each station on your line, station by station, every station?

Mr. Fleishel: Well, that would not show you much, because it is practically all from Fullerton. The only other shipping point on our line that amounts to anything is Rustville.

Examiner Burchmore: You have two divisions.

Mr. Fleishel: You want it separated for the two divisions?

Examiner Burchmore: Yes, I want a statement separated as to the divisions and separated as to stations, too.

Mr. Fleishel: Yes, I can do that.

Examiner Burchmore: Do the best you can on it anyway. We want also, if you can give it to us, a statement separating these different items of tonnage that you have just read, so as to show how much of each item was handled by the Gulf Lumber Company and the various companies in which it is interested.

Mr. Fleishel: That is a pretty good job, but I can get it.

Examiner Burchmore: Give it to us with substantial accuracy.

Examiner Marble: What statements are these that you have here? Perhaps some of them will show.

Mr. Fleishel: Those make no separation whatever.

6416 Examiner Marble: These statements that you have were brought to be put into the record, were they not?

Mr. Saunders: Yes, sir.

Mr. Fleishel: This is simply a copy of our annual report to the Commission on that line. The Commission has all this information I am reading here.

Examiner Marble: Have you any statement there that will show the number of tons of lumber shipped from Fullerton on joint rates?

Mr. Fleishel: It was all shipped from Fullerton on joint rates.

Examiner Marble: And you have put in a statement showing the number of tons?

Mr. Fleishel: Yes, sir.

Examiner Marble: Have you put in a statement showing the amount of revenue?

Mr. Fleishel: Yes, sir.

Examiner Marble: Received from divisions of those joint rates?

Mr. Fleishel: No, I don't know as I have.

Examiner Marble: Have you given us all of that revenue?

Mr. Fleishel: Yes, sir.

6417 Examiner Marble: What was the amount of that revenue on lumber?

Mr. Fleishel: $110,941, but quite a bit of that, of course, was on logs.

Examiner Marble: How much of that was on lumber?

Mr. Fleishel: On outbound lumber?

Examiner Marble: Yes.

Mr. Fleishel: Probably half of it.

Examiner Burchmore: Let us have a statement which will show that accurately.

Mr. Fleishel: All right, I will give it to you.

Examiner Marble: Probably $55,000 then was earned by this six miles of road by the carriage of lumber?

Mr. Fleishel: Not altogether on freight.

Examiner Marble: I am asking you only as to the carriage of lumber, simply the amount received for the carriage of lumber during the last year.

Mr. Fleishel: I will get that statment. I don't know. I will make that statement and give you that also.

Examiner Marble: Your Stables road has allowances for divisions, has it not?

Mr. Fleishel: Yes, very small.

Examiner Marble: How small?

6418 Mr. Fleishel: Averaging about three-quarters to one cent.

Examiner Marble: From what railroad do they receive those?

Mr. Fleishel: Kansas City Southern.

Examiner Marble: How long has it received that amount?

Mr. Fleishel: Oh, since before we bought the road, and ever since we have owned it.

Examiner Marble: Did it ever receive any larger amount than that?

Mr. Fleishel: We received a minimum of half a cent and a maximum of three cents, but I don't suppose there is one carload of lumber out of a hundred that is shipped on the three cent division. That applies only to Kansas City Southern local points, or Kansas City proper, and points south, and I don't suppose that our divisions there would average over three-quarters of one cent.

Examiner Marble: Can you give us a statement showing that?

Mr. Fleishel: We would not have kept it up if it had not been we were going to connect up with this line, because it costs us more than we get out of it, considerably.

Examiner Marble: Can you give us a statement showing
6419 the number of tons of lumber that are shipped on those joint rates through Stables?

Mr. Fleishel: Yes, sir.

Examiner Marble: And the revenue received?

Mr. Fleishel: Yes, sir.

Examiner Marble: What was the amount of the revenue, would you say?

Mr. Fleishel: I would not know. It is very small.

Examiner Marble: What do you charge at Stables for carrying logs into the mill?

Mr. Fleishel: $2.50 per car.

Examiner Marble: How long since you made that charge of $2.50 a car?

Mr. Fleishel: I don't recall, the tariff will show.

Examiner Marble: Did you once charge $4.00 a car there?

Mr. Fleishel: I think we did.

Examiner Marble: The latest charge is $2.50?

Mr. Fleishel: Yes, sir.

Examiner Marble: What was the occasion of the reduction?

Mr. Fleishel: Well, I don't know now. We put in—our traffic department issued a new tariff covering two and a half a car from the whole line for certain distances. Of course it had to
6420 apply on that line as well.

Examiner Burchmore: The haul is also longer now than it was when the rate was $4.00, isn't it?

Mr. Fleishel: I don't know as to that.

Examiner Marble: Necessarily so when you are cutting timber?

Mr. Fleishel: No, it is not necessarily so, at all; because they come back and go out on another spur, and we are not hauling as far as we were two years ago, or a year ago.

Examiner Marble: What was your arrangement or manner of charging for the carriage of those logs?

Mr. Fleishel: We just waybilled them in and collected the freight.

Examiner Marble: Does the subsequent shipment of lumber in any way affect those charges?

Mr. Fleishel: No, sir.

Examiner Marble: Did you have any system of making any refund on the logs in any case for any reason?

Mr. Fleishel: I don't think so. I am not in actual charge of the operation there except in a general way, but if there is any discrepancy our auditor has never reported it to me.

Examiner Burchmore: Your rates are not on a milling in transit basis, are they?

6421 Mr. Fleishel: No.

Examiner Burchmore: The rates from points of origin on your road are the same as the junction point rates?

Mr. Fleishel: Yes, sir.
Examiner Burchmore: No arbitrary.
Mr. Fleishel: No, sir.
Examiner Burchmore: Does this road own its own right of way?
Mr. Fleishel: Yes, sir.
Examiner Burchmore: Is that true of both divisions?
Mr. Fleishel: Yes, sir.
Examiner Burchmore: Do they own all the steel?
Mr. Fleishel: Yes, sir.
Examiner Burchmore: Where did they get the steel?
Mr. Fleishel: Bought it all around the country. We have all 60 pound rails. We bought some from the Blake-Pollock Iron Company here in St. Louis and we bought some from the Kansas City Southern, in fact, we bought the bulk of this rail that we have at Fullerton from the Kansas City Southern.
Examiner Burchmore: Do the officers of this railroad receive annual passes over other railroads?
Mr. Fleishel: Yes, sir.
6422 Examiner Burchmore: Has the Lumber Company any locomotives of its own?
Mr. Fleishel: No, sir, they have no railroad equipment of any kind.
Examiner Marble: Are you familiar with the operations of that Stables Road for the year ending June 30, 1908?
Mr. Fleishel: Only indirectly.
Examiner Marble: Do you know whether during that year you had a system of paying back to the lumber company a portion of the rates received for the carriage of logs inbound under certain circumstances?
Mr. Fleishel: Not to my knowledge, no.
Examiner Marble: Our information is on logs hauled to the mill that year, 6,963 cars, you collected $4.00 per car from the mill, but collected or charged, I don't know which, a total of $27,932.; that you figured that 4400 cars of these logs were turned in to lumber from which you got a division, and therefore you refunded $4.00 per car on those 4400 cars, a total of $17,600.
Mr Fleishel: I don't remember as to that. That was a traffic problem, if we should so refund it.
Examiner Marble: Is there any one here who would know about that?
6423 Mr. Saunders: I don't know. I think not.
Examiner Marble: That left you a net revenue on logs hauled of $10,332, and you received on divisions from the Kansas City Southern Railroad on mill products a total of $6,077.92. Do you know anything about that?
Mr. Fleishel: No, I do not.
Examiner Marble: On supplies hauled to the camp and naval stores out, you received $1,578.68 which left your total gross revenue for the year $17,988?
Mr. Fleishel: Yes, but a good deal of that was on local rates, I guess, in those shipments of logs.

Examiner Marble: You had a gross revenue on logs haule
$27,932, and you refunded $17,600 because you got division
the lumber shipped, is that right?

Mr. Fleishel: I think there was some traffic, just what no
we have had a great deal of argument with the Kansas City So
ern about the method of billing and the amount of divisions.
have never got one-fourth of what we should have.

Examiner Marble: Let us follow that a step further. Ass
that the net result of that would be that when your road rece
a division, the cost of the matured lumber to the mill
6424 pany was reduced, because you made a refund of the log
charge on account of the division?

Mr. Fleishel: That may be so if they were paying the frei
If we think that we are being overcharged by some trunk line
always try to get it back. We don't often do it but we always

Examiner Marble: If you got a division of the rates on lun
you counted that your logging rate was an overcharge?

Mr. Fleishel: No, I would not so consider it.

Examiner Marble: What would you consider an overcharge?

Mr. Fleishel: If we charged them more than the tariff rat
more than a reasonable rate I would call it an overcharge.

Examiner Marble: Why didn't you refund on all of the
brought in in the 6,963 cars, instead of 4,400?

Mr. Fleishel: I cannot answer that; I don't know.

Examiner Burchmore: Why did you refund the entire ch
on those cars?

Mr. Fleishel: I don't know that I can answer that.

Examiner Marble: There could not have been any attemp
reach a reasonable rate on logs without reference to the lun
movement?

Mr. Fleishel: No. That was probably in the nature
6425 milling in transit proposition.

Examiner Burchmore: Were the rates on a milling
transit basis at that time?

Mr. Fleishel: I don't know, I am sure.

Examiner Burchmore: What year was that?

Mr. Marble: The year ending June 30, 1908. Do you k
whether the same method has been followed in subsequent ye

Mr. Fleishel: No, it has not. Since we have had our railr
plans we have been working to get everything in our division
form.

Examiner Marble: You reduced the rate from 4 to 2½ and
out——

Mr. Fleishel: For a certain haul.

Examiner Marble: And cut out the refund?

Mr. Fleishel: For a certain haul, yes.

Examiner Marble: For a certain haul? I thought that 2½
for any haul.

Mr. Fleishel: Oh, no. Our tariff provides 2½ a car up to 5 mi
and then for points five to ten miles——

Examiner Marble: What length of haul is there on the logs

Mr. Fleishel: There will be, of course, quite a haul.

6426 Examiner Marble: I mean now.
Mr. Fleishel: I think probably five miles.
Examiner Marble: Well, under five miles.
Mr. Fleishel: Under five miles, 2½.
Examiner Marble: 2½ a car?
Mr. Fleishel: Yes, sir.
Examiner Marble: Then the 2½ rate is the rate on all shipments at the present time?
Mr. Fleishel: Yes, all that move at the present time.
Examiner Marble: All that can be moved.
Mr. Fleishel: With the exception of some logs that we carry on the other division.
Examiner Marble: Do you haul them more than ten miles?
Mr. Fleishel: I think we do on the Stables Division.
Examiner Burchmore: Do you have any joint rate on hardwood?
Mr. Fleishel: No, not here; this is a purely local movement. We haul the logs on a local rate there.
Examiner Marble: How much track have you there?
Mr. Fleishel: At Stables?
Examiner Marble: Yes.
Mr. Fleishel: Main line I think we have about 8½ miles;
6427 probably 9, or between that, and we have a spur system that is about 3 or 4 miles long.
Examiner Marble: How far from Stables is the junction with that spur?
Mr. Fleishel: I think that is at one end of the track there.
Examiner Marble: So that the entire length of the main line and that spur, you could not get out more than 10 miles from Stables?
Mr. Fleishel: No, sir.
Examiner Marble: That is all, I think.
Examiner Burchmore: Mr. Saunders?
Mr. Saunders: Mr. Fleishel, when the railroad company was first organized, where and to what points was it planned to build that road?
Mr. Fleishel: We first chartered the line from Leesville to Merryville.
Mr. Saunders: Was the charter subsequently amended?
Mr. Fleishel: Yes, sir, it was later amended, to run from Leesville to Alexander through Fullerton. We were going to build that railroad across to Alexander.
Mr. Saunders: Can you describe briefly the territory between Fullerton and Alexander which this road will penetrate?
6428 Mr. Fleishel: Well, the first 45 miles of it from Leesville toward Alexander is pine forest.
Mr. Saunders: Owned by whom?
Mr. Fleishel: It is owned by many more than by the Gulf Lumber Company, the Gould estate, Jay Gould estate, and Weyerhauser & South Land Company, Calcasieu Lumber Company, the Rupp estate, and more or less——
Mr. Saunders: Underwood?
Mr. Fleishel: Underwod estate.

Mr. Saunders: There are large timber holdings in there which are not directly or indirectly connected with the Gulf Lumber Company?

Mr. Fleishel: Yes. We do not own a fourth of them.

Mr. Saunders: Was the saw mill at Fullerton built before the railroad was started?

Mr. Fleishel: No, afterwards.

Mr. Saunders: You said there was need for a line running through that territory east and west so as to shorten time and facilitate traffic. Will you explain why that is?

Mr. Fleishel: There is absolutely no east and west railroad in that part of the state. A man going to Baton Rouge to the legislature or any place like that has to go up the road 75 or 100 miles and
6429 go down the same distance in order to get a railroad going into that part of the state, and he has got to lay over 24 or 36 hours in some of these little branch lines in order to make connections.

Mr. Saunders: You spoke of a rich farming territory between Fullerton and Alexander. How large a territory is that approximately?

Mr. Fleishel: I should judge it is twenty miles, about.

Mr. Saunders: You said that territory has no railroad facilities now?

Mr. Fleishel: Absolutely none. It is a big cane center up there, and there would be a sugar refinery built in Alexander this year if they had any transportation for the product out of there.

Mr. Saunders: Where was the rail purchased by the Gulf & Sabine River Railroad for its line?

Mr. Fleishel: The principal portion of it, I think, from the Blake-Pollock Iron Company in St. Louis.

Mr. Saunders: Did that rail move in on any special rate?

Mr. Fleishel: No, sir.

Mr. Saunders: Paid full tariff rate on that?

Mr. Fleishel: Yes, sir, so far as I know.

6430 Mr. Saunders: Were there any contracts oral or written by which any interest was given the right to that rail?

Mr. Fleishel: No, sir.

Mr. Saunders: Does it belong absolutely to the Gulf & Sabine River Railroad?

Mr. Fleishel: They have the absolute title, no string tied to it of any kind.

Examiner Marble: State whether or not any officer of any trunk line owns stock in the Gulf & Sabine River Railroad?

Mr. Fleishel: Absolutely none, I believe.

Mr. Saunders: Is there any stock owned in that way in the Gulf Lumber Company?

Mr. Fleishel: No, not to my knowledge unless it has taken place in the last month or so.

Examiner Burchmore: What was the purpose of that question, if I may ask.

Mr. Saunders: I want to show that it is disconnected from any trunk line proposition, it is an entirely independent railroad.

Do you operate daily trains there?

Mr. Fleishel: Yes, sir.

Mr. Saunders: On a schedule?

6431 Mr. Fleishel: We run four passenger trains a day.

Mr. Saunders: From what point to what point?

Mr. Fleishel: From Fullerton through Rustville to Nitram and back.

Mr. Saunders: Two round trips?

Mr. Fleishel: Two round trips a day.

Mr. Saunders: How are your trains equipped?

Mr. Fleishel: Just the same as any other passenger trains with electric lights in the trains and electric headlights on the locomotives.

Mr. Saunders: Does your equipment comply with the safety appliance act?

Mr. Fleishel: In every respect, yes, sir.

Mr. Saunders: Do you handle any freight on your passenger trains?

Mr. Fleishel: None at all, no, sir.

Mr. Saunders: Do you handle baggage?

Mr. Fleishel: Yes, sir.

Mr. Saunders: Express?

Mr. Fleishel: Yes, sir.

Mr. Saunders: Have you contracts with the United States government to handle mail?

6432 Mr. Fleishel: Yes, sir.

Mr. Saunders: Are your schedules published?

Mr. Fleishel: Yes, sir.

Mr. Saunders: Where are they published.

Mr. Fleishel: All railway guides.

Mr. Saunders: Do you sell passenger tickets?

Mr. Fleishel: Yes, sir.

Mr. Saunders: From what points?

Mr. Fleishel: Between all stations.

Mr. Saunders: To what points?

Mr. Fleishel: From all stations on our line to and between all stations on our line, but we only sell through passenger tickets to points on other lines where we have special divisions. The Santa Fe doesn't make any through rates.

Mr. Saunders: Who makes your passenger rates?

Mr. Fleishel: The Railroad Commission of Louisiana.

Mr. Saunders: You mean local rates?

Mr. Fleishel: Intrastate rates, yes.

Mr. Saunders: Do you issue free passes?

Mr. Fleishel: Yes, we do, to officials of connecting lines.

Examiner Marble: I suppose that is strong proof that it is a common carrier.

6433 Mr. Saunders: Are these recipients ready to ride over your road?

Mr. Fleishel: Yes, we have had as many as five or six private cars over it in the last twelve months.

Mr. Saunders: Do you issue free transportation on your trains?

Mr. Fleishel: No, not to any one who is not entitled to it under the law.

Mr. Saunders: Have you a railroad freight agent?

Mr. Fleishel: Yes.

Mr. Saunders: Where is he located?

Mr. Fleishel: We have an agent at Fullerton, a joint agent at Nitram and a local agent at Rustville.

Mr. Saunders: Have you a train dispatcher?

Mr. Fleishel: Yes, sir.

Mr. Saunders: Where located?

Mr. Fleishel: At Fullerton.

Mr. Saunders: Have you an express agent?

Mr. Fleishel: Yes, sir.

Mr. Saunders: Where is he located?

Mr. Fleishel: He is at Fullerton.

Examiner Burchmore: Which of those gentlemen are em-
6434 ployed by the Lumber Company also?

Mr. Fleishel: None of them.

Mr. Saunders: Are those men working for the Gulf Lumber Company?

Mr. Fleishel: No, they have absolutely nothing whatever to do with the Gulf Lumber Company in any respect.

Mr. Saunders: Are they paid any part of their salary by the Gulf Lumber Company?

Mr. Fleishel: No, sir.

Mr. Saunders: What is the population of Fullerton?

Mr. Fleishel: About 1800.

Mr. Saunders: Is it an incorporated town?

Mr. Fleishel: Yes, sir.

Mr. Saunders: Has it a mayor?

Mr. Fleishel: Yes, sir.

Mr. Saunders: Municipal officers?

Mr. Fleishel: Yes, sir.

Mr. Saunders: Police?

Mr. Fleishel: Yes, sir. Don't need them though, very bad.

Mr. Saunders: Do your agents furnish bonds?

Mr. Fleishel: Yes, sir.

6435 Mr. Saunders: To whom is that bond furnished?

Mr. Fleishel: Gulf & Sabine River Railroad.

Mr. Saunders: It is the regular bond furnished by freight agents to railroads ?

Mr. Fleishel: Yes, sir.

Mr. Saunders: I believe you stated you used 60-pound rail?

Mr. Fleishel: Yes, sir; we do not have any other kind.

Mr. Saunders: How is the tonnage of the trains on your line as compared with the tonnage of the trains of the Santa Fe and the Southern Pacific with which you make connections?

Mr. Fleishel: We haul about twice what they do. The reason is that *is* have a better road and heavier equipment.

Mr. Saunders: Have you got a heavier rail?
Mr. Fleishel: The rail, I think, is either 56 or 60 pound rail.
Mr. Saunders: Is your track ballasted?
Mr. Fleishel: Yes, sir.
Examiner Burchmore: Let me ask what road are you discussing now, the Fullerton Division or both divisions?
Mr. Fleishel: The Fullerton Division.
Examiner Burchmore: Just what do you mean by a
6436 heavier tonnage?
Mr. Fleishel: The trains we haul are heavier than either the Southern Pacific or the Santa Fe.
Examiner Burchmore: More cars in them?
Mr. Fleishel: More cars to the train and heavier locomotives to haul them, more tonnage and a heavier rail.
Mr. Saunders: How many locomotives have you?
Mr. Fleishel: Seven.
Mr. Saunders: What weight?
Mr. Fleishel: All the way from 42 to 80 tons, I think.
Mr .Saunders: How many loaded cars can you handle over your line?
Mr. Fleishel: We can pull 60 cars between Fullerton and Nitram.
Mr. Saunders: Have you done so?
Mr. Fleishel: Yes, sir.
Mr. Saunders: What is the maximum grade on your line?
Mr. Fleishel: Six-tenths of one per cent.
Mr. Saunders: Do you know what the maximum curvature is?
Mr. Fleishel: No.
Mr. Saunders: In comparison with the locomotives of the Southern Pacific and the Santa Fe with which you make
6437 connections, are your locomotives larger or smaller?
Mr. Fleishel: They are a good deal better than the branch line of those roads use. Of course on the main line they would not be.
Mr. Saunders: Has it ever happened that any of your cars have left your lines destined to points in other states?
Mr. Fleishel: Yes, sir, we have got some flat cars now that have been gone for fifteen months.
Mr. Saunders: Have you made efforts to get them back?
Mr. Fleishel: No, not specially. We are getting 35 cents a day for them, not *exorcised* over them at all.
Examiner Burchmore: You are a party to the per diem arrangement?
Mr. Fleishel: Yes, sir.
Mr. Saunders: You are a party to the per diem arrangement?
Mr. Fleishel: Yes, sir.
Mr. Saunders: So you get a per diem rate?
Examiner Burchmore: I don't think we will go into that.
Mr. Saunders: Do you charge demurrage?
Mr. Fleishel: Yes, sir; if they do not load the cars in forty-eight hours.
6438 Mr. Saunders: Have you a round house?
Mr. Fleishel: Yes, sir.

Mr. Saunders: How do you maintain your equipment?
Mr. Fleishel: How do you mean?
Mr. Saunders: Well, have you any machinists there to keep up your equipment?
Mr. Fleishel: Oh, yes.
Mr. Saunders: Do you have any team tracks?
Mr. Fleishel: Yes, sir; at Fullerton and Rustville, yes.
Mr. Saunders: What capacity are they?
Mr. Fleishel: They will hold about eighteen or twenty cars on one, and about ten or twelve on the other, and six or eight on the other at Fullerton; and at Rustville it holds about ten cars on the team track.
Mr. Saunders: Have you any scales on the tracks?
Mr. Fleishel: Yes, sir.
Mr. Saunders: What are they?
Mr. Fleishel: We have the latest type of 100 ton self-regulating team scales the same as they use on all of the trunk line roads.
Mr. Saunders: Where is that located?
Mr. Fleishel: Fullerton.
6439 Mr. Saunders: As a matter of fact do you weigh all cars before they go out?
Mr. Fleishel: Certainly; we could not bill them out if we did not.
Mr. Saunders: Have you a weigh-master?
Mr. Fleishel: Yes, sir.
Mr. Saunders: Under what jurisdiction is he?
Mr. Fleishel: The Western Railway Weighing Association.
Mr. Saunders: Is he an employee of the railway company?
Mr. Fleishel: Yes, sir; he is an employee of the railway company and the weighing association. He does not work for the Lumber Company in any respect.
Mr. Saunders: On the Fullerton Division do you haul any logs from Fullerton to Nitram?
Mr. Fleishel: I think not, no.
Mr. Saunders: The logs are hauled in from the road beyond Fullerton to the mill?
Mr. Fleishel: Yes, sir.
Mr. Saunders: And there manufactured?
Mr. Fleishel: Yes, sir.
Mr. Saunders: Have you milling in transit arrangements at Fullerton?
6440 Mr. Fleishel: No.
Mr. Saunders: Have you milling in transit arrangements at Stables?
Mr. Fleishel: No, I think not.
Mr. Saunders: Now, do you haul any other commodities from Fullerton and Nitram besides lumber and lumber products?
Mr. Fleishel: Yes, sir.
Mr. Saunders: Haul commodities in and out?
Mr. Fleishel: Yes, sir. Every day.
Mr. Saunders: Have you filed any local tariff with the Louisiana State Railroad Commission?
Mr. Fleishel: Yes, sir.

Mr. Saunders: I believe you stated that your passenger rates were made by the State Railroad Commission on intrastate traffic?

Mr. Fleishel: Yes, sir.

Mr. Saunders: Are the local rates of freight higher or lower than the division you receive on outbound shipments to interstate points?

Mr. Fleishel: They are higher in all cases.

Mr. Saunders: Can you state approximately how much higher they are?

6441 Mr. Fleishel: Well, our local rate on lumber for any distance between Fullerton and Nitram is 5 cents a hundred, and our division will probably average 3 or 2¾ cents.

Mr. Saunders: You make reports to the Interstate Commerce Commission regularly?

Mr. Fleishel: Yes, sir.

Mr. Saunders: Do you make them on the prescribed forms?

Mr. Fleishel: Yes, sir; in every case.

Mr. Saunders: Does your road make reports to the Louisiana State Railroad Commission?

Mr. Fleishel: Yes, sir.

Mr. Saunders: Does it on the prescribed forms?

Mr. Fleishel: Yes, sir.

Mr. Saunders: Who owns the telegraph and telephone lines on the railroad?

6442 Mr. Fleishel: Well, at Nitram, the Western Union and ourselves together have some joint wires, but on our line we own it all, the railroad company.

Mr. Saunders: What about the telephone line?

Mr. Fleishel: Well the railroad company owns the telephone line, that is, we have the same situation in Nitram, we have the Southwest Telephone Company own part of the switchboard and we own part of it, and we have five joint wires there also.

Mr. Saunders: Are you familiar with the Louisiana law exempting railroads from taxation within a certain time after the adoption of the constitution of 1898?

Mr. Fleishel: Yes, sir.

Examiner Burchmore: The Commission is also familiar with that law.

Mr. Saunders: Is your road exempt from taxation?

Mr. Fleishel: Yes, sir.

Mr. Saunders: That matter was taken up with the Louisiana State authorities, and they ruled your railway was exempt from taxation as a railroad?

Mr. Fleishel: Yes, sir.

Examiner Marble: Your lumber is shipped in box cars?

6443 Mr. Fleishel: No, it is not.

Examiner Marble: In flat cars?

Mr. Fleishel: Yes, sir.

Examiner Marble: You spoke of some flat cars being away that went off your road loaded with lumber?

Mr. Fleishel: Yes, sir.

Examiner Marble: How many flat cars have you used for loading lumber?

Mr. Fleishel: We try not to let any of them get off our rails, but five or six, something like that.

Examiner Marble: Five or six have got away, do you mean?

Mr. Fleishel: Yes, sir, but our box cars leave our road all the time.

Examiner Marble: Are those box cars used for hauling lumber?

Mr. Fleishel: No, they are regular 60,000 pound flat cars.

Examiner Marble: How many large flat cars have you?

Mr. Fleishel: I don't remember, five or six.

Examiner Marble: How many box cars have you?

Mr. Fleishel: About the same number.

Examiner Marble: Five or six?

Mr. Fleishel: Yes, sir.

6444 Examiner Marble: Where are they?

Mr. Fleishel: We don't let them go off our line at all, just use them to handle local freight and stuff like that.

Examiner Marble: The empty cars for the shipment of lumber are furnished to you by the Lake Charles & Northern?

Mr. Fleishel: Yes, sir, we interchange at Nitram, we have a joint agent there.

Examiner Marble: Under an operating agreement?

Mr. Fleishel: Yes, sir.

Mr. Walter: You spoke of the large Gould estate. Is that near the Iron Mountain?

Mr. Fleishel: Yes, sir.

Mr. Walter: How large is that tract?

Mr. Fleishel: They have 104,000 acres right there in one bunch.

Mr. Walter: Is there a mill or has there been a mill there?

Mr. Fleishel: No, it runs around the wagon road up to——

Mr. Walter: Is there a mill there on the tract anywhere to cut that lumber?

Mr. Fleishel: No.

Mr. Cowan: It was stated by you or Mr. Fullerton that the Southern Pacific lines have certain lands.

6445 Mr. Fleishel: Yes, sir.

Mr. Cowan: What lands are those in points of acreage?

Mr. Fleishel: Probably 80,000 acres, probably 71,000 acres I should say.

Mr. Cowan: Is that land most accessible to your present operation?

Mr. Fleishel: Well, yes, I should think it was.

Mr. Cowan: Is it designated by boundaries?

Mr. Fleishel: No, sir, I think not.

Mr. Cowan: What is the aggregate of the land you have in the country?

Mr. Fleishel: About 140,000 acres.

Mr. Cowan: Your divisional agreement is in writing, I suppose?

Mr. Fleishel: No, sir, not that I know of.

Mr. Cowan: Is your timber scattered in that territory which you described where you expect to extend your line to Leesville through the other tract of 40 miles?

Mr. Fleishel: No, we haven't much timber much of the route, our timber does not go probably over one-fourth of the route.

Mr. Cowan: Your statement that has been called for will show of course, the amount of divisions in the aggregate and the
6446 sum total?

Mr. Fleishel: Yes, sir.

Mr. Cowan: That you receive?

Mr. Fleishel: Yes, sir.

Mr. Cowan: Is Fullerton a company town?

Mr. Fleishel: In a broad sense, yes, sir.

Mr. Cowan: Are there any other industries there except yours?

Mr. Fleishel: There are fifteen or twenty stores there.

Mr. Cowan: What is there to attract inhabitants there with the exception of your operations?

Mr. Fleishel: Well that is the chief attraction, I suppose.

Mr. Cowan: Was there a town there before you got there?

Mr. Fleishel: No, not right there.

Mr. Cowan: So it simply grew out of your enterprise?

Mr. Fleishel: Yes, sir.

Mr. Cowan: There is no farming around there?

Mr. Fleishel: Yes, sir, a little.

Mr. Cowan: Nothing commercially that you could——

Mr. Fleishel: Nothing of any special commercial value until you get in close to Leesville.

Mr. Cowan: The commercial importance of the town grows
6447 out of the fact that the people live there because they have been attracted there on account of the enterprise that you established?

Mr. Fleishel: Some of them, yes.

Mr. Cowan: Practically all of them, either directly or indirectly?

Mr. Fleishel: It depends on how direct you are going to be.

Mr. Cowan: There might be a doctor there and he might be there for the purpose of serving those people.

Mr. Fleishel: I would call him direct.

Mr. Cowan: Can you operate your trains more cheaply by handling the heavier trainloads, as you say, than your connecting lines?

Mr. Fleishel: Well I don't know as to that; I should think I could, yes.

Mr. Cowan: Do you pay your engineers and conductors on the basis of labor contracts with railroads generally, or so much per month?

Mr. Fleishel: No, sir, we do not.

Mr. Cowan: How much do you pay your engineers?

Mr. Fleishel: Three dollars a day.

6448 Mr. Cowan: That is about half what they get on the main line?

Mr. Fleishel: I think so, yes.

Mr. Cowan: Are there any expenses in the operation of your railroad or in the item of expense that is material where you pay out greater expenses than the Santa Fe or the Southern Pacific?

Mr. Fleishel: Well I don't know as to that; I don't know.

Mr. Cowan: What did your rails cost you per mile to construct that sort of road?

Mr. Fleishel: I think about seventeen or eighteen thousand dollars a mile.

Mr. Cowan: Including ballast?

Mr. Fleishel: Yes, sir.

Mr. Cowan: Can you maintain your track more cheaply having it ballasted and constructed in the form you have it than would be the case with your connecting lines?

Mr. Fleishel: Well, we can from now on, I think.

Mr. Cowan: That is what I mean.

Mr. Fleishel: From now on we can, yes.

Mr. Cowan: The maintenance of your equipment is not more expensive per mile of line than the Santa Fe or the Southern
6449 Pacific?

Mr. Fleishel: I think it has been, but now we have first class facilities for rebuilding, and our maintenance of locomotives will not be so great in the future.

Mr. Cowan: That is altogether on account of the rebuilding process?

Mr. Fleishel: Yes, sir.

Mr. Cowan: Do you know actually what it does cost you for hauling the lumber to the mill, delivering it to the junction point of your connecting line?

Mr. Fleishel: We don't haul any lumber to the mill.

Mr. Cowan: From the mill?

Mr. Fleishel: No, I do not. We do not keep those expenses separate.

Mr. Cowan: Just what do you expect the Interstate Commerce Commission to base its conclusions as to the rights of the roads you now have upon, what you will be doing after you get these other roads built?

Mr. Fleishel: I don't know——

Mr. Saunders: I object to that question, Mr. Commissioner.

Examiner Burchmore: I suggest we do not go into that.

Mr. Cowan: I want you to sustain the objection.

6450 Examiner Burchmore: Then withdraw the question.

Mr. Cowan: All right. Who holds the bonds that were issued?

Mr. Fleishel: My understanding is the Gulf Lumber Company does.

Mr. Cowan: Do you know whether they actually have them or whether they have been taken over, financed, as you call it, by the Southern Pacific interests?

Mr. Fleishel: I know that we have been trying to sell those bonds in the open market and have not been able to do so.

Mr. Cowan: These private cars that you speak of, those parties were up there for fishing?

Mr. Fleishel: Why no, as a general proposition they come up to see the road and the mills, the plant of the Gulf Lumber Company.

Mr. Cowan: You have got a newly constructed mill with the latest patterns of machinery of all sorts?

Mr. Fleishel: We think so; yes, sir.

Mr. Cowan: It is worth anyone's while to see, if they come up there?

Mr. Fleishel: Yes, sir, we think so, and a great many other people who have come up there think so.

6451 Mr. Cowan: In regard to the Lutcher-Moore proposition, there has been no arrangement made for that outside of negotiations?

Mr. Fleishel: Yes, sir, there is nothing, no negotiations concluded at all.

Mr. Cowan: That is all.

Examiner Marble: You testified regarding the excellence of your roadbed. How many cars of lumber did you say you had hauled with a single train?

Mr. Fleishel: We can haul from fifty to seventy cars with a heavy locomotive.

Examiner Marble: Have you ever done so?

Mr. Fleishel: The highest that I recall is fifty-three. We went down there one day with fifty-three cars.

Examiner Marble: What is your average train?

Mr. Fleishel: I should say about twenty-five cars.

Examiner Marble: That is an ordinary train?

Mr. Fleishel: That is about what we usually ship every day.

Examiner Marble: Those are not bigger trains than your connecting lines haul?

Mr. Fleishel: Yes, sir.

6452 Examiner Marble: How many cars do they haul in an average train?

Mr. Fleishel: Most of them I think would go from fifteen to twenty.

Examiner Marble: They would haul more if they had them?

Mr. Fleishel: I think they would if they could, if they had the roadbed to put them over.

Examiner Marble: What is the load of your cars, I mean the average load?

Mr. Fleishel: Forty tons or fifty—no, I should say thirty-five or forty tons. We load the cars as heavy as we can. We ship a great deal of big, square, green timber, you know that runs——

Examiner Marble: Thirty-five to forty tons is the average load, and twenty-five cars is the average train?

Mr. Fleishel: I should say so.

Examiner Burchmore: You said that you had endeavored to sell these bonds on the general market?

Mr. Fleishel: The Gulf Lumber Company have since they have had them.

Examiner Burchmore: Have they made any special efforts?

Mr. Fleishel: I think they have.

6453 Examiner Burchmore: Have you gotten out any literature?

Mr. Fleishel: No, we did not have enough to go behind the literature.

Mr. Garwood: It has been stated somewhere in this record that about 92 per cent of the Santa Fe tonnage from that Jasper & Eastern branch is lumber.

Mr. Fleishel: I should judge more than that. They have their mills and, of course, they get all of it.

Mr. Garwood: Did I understand you to say that the physical characteristics of your track were better than the Santa Fe and the Lake Charles & Northern?

Mr. Fleishel: I think they are, yes, sir, they all think so.

Mr. Garwood: That is all.

Mr. Saunders: Just one question. Judge Cowan asked you about the service you performed there in hauling the lumber from the mill over to Nitram. You haul the empty cars in from Nitram——

Examiner Burchmore: I think that is well understood.

Mr. Fleishel: Yes, sir.

Mr. Saunders: He also asked you if it would be less expensive to keep up the track hereafter than for some of the connecting carriers to keep up their track, as I understood his question.

6454 Is that due to the fact that you have spent more money originally and ballasted your road?

Mr. Fleishel: Yes, spent more in the track.

Mr. Saunders: You put in a better track and maintain it in better conditions than the connecting lines?

Mr. Fleishel: Yes, sir.

Examiner Marble: What is the capacity of these mills at Fullerton?

Mr. Fleishel: In what respect, as to tonnage?

Examiner Marble: Number of cars per day.

Mr. Fleishel: About thirty or thirty-five cars.

Examiner Marble: I am not talking about theoretical capacity, but what you actually do.

Mr. Fleishel: About twenty-five cars a day.

Examiner Marble: About one train a day?

Mr. Fleishel: Yes, sir.

Examiner Marble: Your business is normal at the present time?

Mr. Fleishel: Well I think it is a little below normal.

Examiner Marble: What is normal?

Mr. Fleishel: I don't know. During the fall we had a pretty severe car shortage and the shipments at that time were

6455 nothing like what they are now.

Examiner Marble: Your statements of tonnage handled and amount received will cover all that?

Mr. Fleishel: Yes, sir, there has been quite a material increase.

Mr. Garwood: What mills are there between De Ridder and Oakdale along the Santa Fe Line?

Mr. Fleishel: There is the Ludington—Wells & Van Schaack Lumber Company connecting with the Santa Fe line, and then there is the Cravens mill and the Little mill at Royal, and then the Santa Fe mills at Elizabeth.

Examiner Marble: Is the Elizabeth mill on the Santa Fe?

Mr. Fleishel: No, the others are.

Mr. Garwood: What is the general character of the country there outside of these mills?

Mr. Fleishel: Along the Santa Fe?

Mr. Garwood: Yes.

Mr. Fleishel: Nothing but pine forests.

Mr. Garwood: How many of those mills were there prior to the construction of the Santa Fe, if any?

Mr. Fleishel: None of them except the Cravens mill.

Mr. Garwood: That is all.

6456 Mr. Cowan: I did intend to examine Mr. Fullerton and I was going into the matter of the prices, marketing, and the methods of the sale of lumber and the like, but I guess that has been sufficiently gone into with that witness. If he happens to be in Chicago, we may take a little time to do it there.

Examiner Burchmore: Very well.

Mr. Saunders: It was simply general matters?

Mr. Cowan: Yes, he did not testify to much else.

Examiner Burchmore: Mr. Saunders, do you desire to offer this map in evidence?

Mr. Saunders: Yes, I will offer this map in evidence as Exhibit No. 2.

The statements you have called for we will, of course, make up and supply.

(The map so offered and identified, was received in evidence and thereupon marked "Fleishel Exhibit No. 2, received in evidence January 28, 1911," consisting of one page, and is attached hereto.)

6457 *England & Clear Lake Railroad Company.*

Mr. Saunders: Mr. Commissioner, the England & Clear Lake Railroad Company of Arkansas would like to be heard, and I am advised that about nineteen months ago, the Cotton Belt cut off the divisions it was then receiving and since that time it has received no divisions. However, since the Commission has ordered the road to appear, and I understand that the road was called in New Orleans two or three times, I think it is proper that Mr. Locke, the President of the road, should appear here before the Commission and offer to give testimony in regard to the status of his road. As stated above, the road has not been receiving any divisions for the past eighteen months. Our finished track consists of five miles, from a place called Lockeville to England, and the road has been extended five miles further through a very rich farming territory consisting of about 200,000 acres, that the road now serves.

Examiner Burchmore: When was this extension made?

Mr. Locke: In September.

Examiner Burchmore: In September last year?

Mr Saunders: Until that time the road was operating exclusively in the interests of a lumber company, wasn't it?

6458 Mr. Locke: Yes, sir.

Mr. Saunders: Was it not?

Mr. Locke: Yes, sir.

6459 Examiner Burchmore: Mr. Saunders, this road has been called repeatedly and has not answered, and it is too late to take it up now, and I may say further that if it receives no divisions and has no joint rates, why——

Mr. Fullerton: It would not be in court under those circumstances.

Examiner Burchmore: It is not exactly in court, and I suggest that if Mr. Locke as an officer of the lumber company thinks he ought to have joint rates on his shipments of lumber, it will be proper for him to file a complaint with the Interstate Commerce Commission as a shipper, asking for joint rates or through rates, or for proper rates, for reasonable rates, and such complaint will go through the usual course. Of course I suppose it would be more proper for him to await the outcome of this proceeding, and not make any such application, or possibly such a complaint at this time.

Mr. Saunders: I would like to suggest this, Mr. Commissioner, that Mr. Lock has a number of statements with him from shippers on his line, showing that he is serving a considerable shipping community, and if those statements can be filed, I would like to do so.

Examiner Burchmore: It is too late. This road has been called before repeatedly, and you ought to have appeared. If they
6460 are not getting any division now, it does not seem that the large question that is involved in this case is really an issue. It is a moot question with this road. The question in this case is whether the Short Line railroads, as I take it, that are related closely to lumber companies, may properly participate in joint through rates, or on what basis they may so participate on lumber that they handle through such roads. This is not a road that gets any divisions, and isn't it a moot question with this road?

Mr. Fullerton: I think it is.

Mr. Saunders: I think perhaps your Honor is right in your ruling, but at all events I desire the road to appear.

Examiner Burchmore: The record would indicate that he is here and desires to be heard. I may say further that if he desires to be heard at Chicago as a shipper or as one who feels that he is being discriminated against because others are getting divisions, I think his testimony could be taken, but not as to the rights of your road.

Mr. Saunders: Then I might say that at this time the road has not filed the report required by the Commission, but the report is now being prepared and he is endeavoring to comply with all the rules of the Commission, and subsequently perhaps he
6461–6464 can make an application as your Honor suggests, either as a railroad or as a shipper.

Examiner Burchmore: The hearing will be resumed at Chicago, Monday, at 10 o'clock.

Whereupon, at 1 o'clock P. M. an adjournment was taken until Monday, January 30, 1911, at 10 o'clock A. M. at Chicago.

[End of Volume III.]

Vol. IV.

TESTIMONY AND EXHIBITS.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1913.

No. 329.

UNITED STATES AND INTERSTATE COMMERCE COMMISSION, APPELLANTS,

vs.

LOUISIANA AND PACIFIC RAILWAY CO. ET AL.

No. 330.

ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY ET AL., APPELLANTS,

vs.

LOUISIANA AND PACIFIC RAILWAY CO. ET AL.

No. 331.

UNITED STATES AND INTERSTATE COMMERCE COMMISSION, APPELLANTS,

vs.

WOODWORTH AND LOUISIANA CENTRAL RAILWAY COMPANY ET AL.

No. 332.

ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY ET AL., APPELLANTS,

vs.

WOODWORTH AND LOUISIANA CENTRAL RAILWAY COMPANY ET AL.

No. 333.

UNITED STATES AND INTERSTATE COMMERCE COMMISSION, APPELLANTS,

vs.

MANSFIELD RAILWAY AND TRANSPORTATION COMPANY ET AL.

No. 334.

ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY ET AL., APPELLANTS,

vs.

MANSFIELD RAILWAY AND TRANSPORTATION COMPANY ET AL.

No. 335.

UNITED STATES AND INTERSTATE COMMERCE COMMISSION, APPELLANTS,

vs.

VICTORIA, FISHER AND WESTERN RAILROAD COMPANY ET AL.

No. 336.

ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY ET AL., APPELLANTS,

vs.

VICTORIA, FISHER AND WESTERN RAILROAD COMPANY ET AL.

APPEALS FROM THE UNITED STATES COMMERCE COURT.

FILED DECEMBER 20, 1913.

(23,980—23,986)



IN THE

United States Commerce Court.

No. 90.

LOUISIANA & PACIFIC RAILWAY COMPANY ET AL., PETITIONERS,

vs.

THE UNITED STATES OF AMERICA ET AL., RESPONDENTS; INTERSTATE COMMERCE COMMISSION ET AL., INTERVENERS.

No. 91.

WOODWORTH & LOUISIANA CENTRAL RAILWAY COMPANY, LIMITED, ET AL., PETITIONERS,

vs.

THE UNITED STATES OF AMERICA ET AL., RESPONDENTS; INTERSTATE COMMERCE COMMISSION ET AL., INTERVENERS.

No. 92.

MANSFIELD RAILWAY & TRANSPORTATION COMPANY ET AL., PETITIONERS,

vs.

THE UNITED STATES OF AMERICA, RESPONDENT; INTERSTATE COMMERCE COMMISSION ET AL., INTERVENERS.

No. 93.

VICTORIA, FISHER & WESTERN RAILROAD COMPANY ET AL., PETITIONERS,

vs.

THE UNITED STATES OF AMERICA, RESPONDENT; INTERSTATE COMMERCE COMMISSION ET AL., INTERVENERS.

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JUDD & DETWEILER (INC.), PRINTERS, WASHINGTON, D. C.

VOLUME IV.

STAR GRAIN AND LUMBER COMPANY et al., Complainants,
against
ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY et al.,
Defendants.

6465 CHICAGO, ILL., *January* 30, 1911.

Met pursuant to adjournment, in the Congress Hotel, at 10:00 A. M.

Present:

Commissioner J. S. Harlan.
Parties as before.

(Mr. Walter filed copies of Exhibits previously referred to and identified, of the Angelina & Neches River Railroad Company, Mansfield Railway & Transportation Company, and Nacogdoches & Southeastern Railway.)

Commissioner Harlan: Judge Cowan, are you now ready to proceed?

Mr. Cowan: Yes, sir. If your Honor please, we wish now to call attention to the request made at New Orleans for certain tonnage statistics of the Trunk Line railroads of the traffic which they receive from the tap lines, dividing it between those who do get and those who do not get divisions; and tonnage statistics of lumber which comes from mills which are not operated by railroads at all, and supposing that it is intended to be filed, having asked that
6466 it be done at this hearing, we want to press the matter that it may be filed as soon as it is practicable to be made up. Some of the roads have done so.

Commissioner Harlan: Is that information available on the part of the carriers?

Mr. Jeffery: As far as the Iron Mountain is concerned I feel it is a critical element of our defense to the case, and I have had our people prepare it, and I expect it will be here in a day or so. I may say that I did not know that Judge Cowan had made a request until the other day. I did not order a copy of the record, and was not there at the close of the hearing. However, I had ordered those statistics and data prepared anyhow for our defense.

Commissioner Harlan: What is the basis of your exhibit?

Mr. Jeffery: It is the basis of showing the tonnage originating on the main line, and originating on the tap lines, and the net revenue, you might say the ex-tap line allowances revenue, and our main line revenue.

Mr. Cowan: I think that is very important from all the lines. I am sure the figures are available. I do not want to point out now why I say it is very valuable, but I do think so, and Mr.
6467 Jeffery seems to have borne me out in that.

Mr. Wood: I was not aware that a request for such statistics had been made until the request was made at St. Louis last week, because it was made after I left New Orleans, and I was not advised. I took the matter up with our accounting officer, and it will be possible to give the information that Judge Cowan requests, I think, although I am advised to secure the same for a period of three years will take possibly two weeks, and possibly longer. Because while, of course, the figures are available in the accounting department, they are not consolidated now in such a way that they can be easily drawn off, and it will require a great amount of clerical labor to take out the items. But we are preparing to furnish that information both for the Frisco lines and for the Southwest lines, the New Orleans, Texas & Mexico. There is no difficulty about giving the figures. As I understand, Judge Cowan wants that originating on tap lines, and that which originates on the main line. Judge Cowan has also asked for a list of all mills and for the output of those mills. It will be impossible for us to give that information accurately.

We can furnish a list so far as we have it, and the estimated
6468 capacity of those mills as reported to us from time to time.

Commissioner Harlan: That is, reported by your own officials?

Mr. Wood: Reported by our own officials, and they get their information from various sources. As I said in St. Louis, we do not think those statements are to be relied upon to any great extent.

Another thing Judge Cowan has requested is a sketch showing the location of main line tracks, side tracks, and tap line tracks, and all mills. I will not say it is not possible to get it; it is possible to get it, but it would take a great deal of time, and would involve the expenditure of a great deal of money to furnish such sketches.

Commissioner Harlan: I assume Judge Cowan does not want a survey, but only a rough indication.

Mr. Cowan: That is all.

Mr. Wood: We have several hundred mills on the Frisco proper, and that would involve the making of several hundred separate blue prints. I do not know how long it would take. I know we are engaged now in an effort to give the Corporation Commission of Oklahoma blue prints in regard to enlargement of road,
6469 station grounds, and so forth, and I learned in that that it was quite a task just to make the blue prints.

Commissioner Harlan: Do you mean you think you cannot do that reasonably?

Mr. Wood: I do not think we can, Mr. Commissioner. I would make the suggestion that I think all these tap lines have been here before the Commission and they have furnished such information so far as their own roads are concerned, and the Commission, I believe, from its own investigation has a large amount of that data. Now we wish to co-operate in this matter just as far as we can, and if the

Commission desires sketches of all the tracks serving all of the lumber mills on our system, although there are several hundreds of them. we will try to furnish that information; but it will take a long time to get it, and the suggestion was that possibly we could supplement, by request from the Commission or Judge Cowan, by additional maps, such evidence as is already in the record, and that possibly from a practical standpoint that might satisfy the requirements.

Mr. Cowan: I think, so far as we are concerned, the yellow pine lines in Louisiana would be all that we would request, and that certainly would not involve much labor.

6470 Mr. Wood: You mean just the land from New Orleans to Houston?

Mr. Cowan: Yes. Our interest lies largely in the yellow pine, and not the hardwood proposition.

Mr. Wood: We can furnish you without very much delay a sketch of all the tracks on the line of the New Orleans, Texas & Mexico, which runs from New Orleans to Houston. We can at least furnish that.

Mr. Cowan: Yes.

Commissioner Harlan: Very well; for the present that will probably do. The Commission has a good deal of general information. We know in a general way the location of the switch tracks to the mill, but we do not know the location of the mill with respect to the main line in every case. If the Commission finds it needs additional information, we will request it.

Mr. Wood: We will give you all the information as to the New Orleans, Texas & Mexico.

Mr. Cowan: I think you will find the data very complete, and that was my reason for asking it, supposing it was in the engineer's record for each road.

6471 Mr. Garwood: In respect to the Texas & New Orleans, and the Houston, East & West Texas, I think we have the data as requested by Mr. Cowan. At any rate, I took his notice to produce copies of that, and gave it to the proper department, and I have the statistics requested, and have had them subject to Mr. Cowan's examination at any time, and I have them now. As to the blue prints or maps requested, I beg to say that I have got two large packages in my room which are supposed to contain all. I have not had time to go through each one, but I assume that they are all there. At any rate, they are subject to his inspection.

Commissioner Harlan: They are available in some form for the Commission?

Mr. Garwood: I think they contain everything he asks, and I am ready to deliver them for his inspection. At this time I would like to inquire of counsel if the copies of the various contracts, and the estimates that we asked the intervenors to have ready at this hearing will be available.

Mr. Cowan: I have been informed that they have been prepared. Of course there are some of those things that we would object to presenting, but I think that it is available so far as the parties could

make it up. It was my instruction to do it, and I think they
6472 have complied as nearly as they could.

My reason for asking the information about the maps and the tonnage statistics should be considered in connection with the request which I made at St. Louis the other day of the Commission to get some map maker to take up the matter so as to get a map that any of us can have some sort of comprehensive view of this case, and it seems to me the tonnage statistics likewise could be compiled by the accounting department, so that we would be in a position so that each one of us might have a correct copy. The Commission might have them printed, even.

Commissioner Harlan: We went over that matter at St. Louis. The Commission can get pretty fair information on that line.

Mr. Cowan: It was not for my personal benefit that I requested this, but for proper information for all parties.

Commissioner Harlan: Is the Rock Island here? I suppose you have asked them for statistics.

Mr. Cowan: Yes. It has been asked of every one.

Commissioner Harlan: You might make inquiry of railroad counsel after the session, and see what is being done in the matter.

Mr. Cowan: Yes. I have, but I put it in the record now,
6473 so that nobody would think I had waived it.

Mr. Coleman: I would like to ask Judge Cowan if the statement I have filed is satisfactory.

Mr. Cowan: I have not looked at it.

Mr. Coleman: It shows the tonnage revenue, but on account of our records having been destroyed, I understand it would have been impossible to furnish the detailed tonnage statistics.

Mr. Cowan: What records do you speak of being destroyed?

Mr. Coleman: The records showing the tonnage.

Mr. Cowan: You speak of the old records?

Mr. Coleman: Yes, at Galveston.

Mr. Cowan: That is a long time back.

Mr. Coleman: We have prepared the revenue, but we have not the tonnage.

Mr. Cowan: I will call Mr. Kirby.

6474 JOHN H. KIRBY, was called as a witness, and having been duly sworn and examined, testified as follows:

Mr. Cowan: Without intending to embarrass you, how old are you?

Mr. Kirby: Fifty.

Mr. Cowan: Where do you live?

Mr. Kirby: At Houston, Texas.

Mr. Cowan: How long have you lived in Texas?

Mr. Kirby: Fifty years, and a couple of morths.

Mr. Cowan: You are engaged in the lumber business

Mr. Kirby: I am.

Mr. Cowan: How long have you been engaged in that business?

Mr. Kirby: I have been engaged in the manufacture and sale of

lumber about 10 years; but I have been engaged in the timber business, buying and selling trees and logs, 25 years.

Mr. Cowan: Where have your operations been carried on in both lines?

Mr. Kirby: In southeast Texas always.

Mr. Cowan: Have you any experience in connection with railroad construction or operation?

Mr. Kirby: I have had some experience. I have built a
6475 railroad in Texas and operated it seven years.

Mr. Cowan: What road was that?

Mr. Kirby: That was the Gulf, Beaumont & Kansas City, now part of the Santa Fe system, running from Beaumont north to San Augustine.

Mr. Cowan: How far?

Mr. Kirby: From Beaumont to San Augustine is about 140 miles; but at the time I sold to the Santa Fe there was only 75 miles in operation; the balance was under contract. I became the contractor, and built it into San Augustine before delivery to the Santa Fe.

Mr. Cowan: At that time were you engaged in the lumber manufacture?

Mr. Kirby: No, sir.

Mr. Cowan: Had you ever been so engaged before?

Mr. Kirby: I had not.

Mr. Cowan: Was this road operated in connection with any lumber operations?

Mr. Kirby: No, sir.

Mr. Cowan: During the time you have been engaged in the lumber manufacture and timber business, have you been acquainted with the industry known as the yellow pine lumber manufac-
6476 turing business, and the commerce in the product, lumber product and forest products?

Mr. Kirby: Yes, sir; that was largely my business to know about such things, and I thought I did.

Mr. Cowan: In the course of the disposition of the output of the various mills engaged in the yellow pine district, is there not and has there not been competition between the producers at the various markets and points of sale and construction?

Mr. Kirby: Yes, sir, there has always been very sharp competition.

Mr. Cowan: Who do you consider the principal buyer from the manufacturers?

Mr. Kirby: Well, the buyers of yard stock are largely the dealers; that is, the retailers throughout the country, and the buyers of saw bills are the railroads and other large builders, I mean the buyers direct from the manufacturers. There are certain large industries like car companies and harvester companies, and people of that kind that buy largely for their own consumption, that buy direct from the manufacturer; but the general user of lumber buys it in a retail yard, buys from the retailer, and the retailer buys from the manufacturer.

6477 Mr. Cowan: Can a man who desires to build a house, for example at Fort Worth, or Chicago, or build some factory, buy the stuff direct from the manufacturer under the rules and regulations of the trade?

Mr. Kirby: Well, yes; not as a rule, because the manufacturers are not in the retail business, and their customers would not permit them to sell to their customers.

Mr. Cowan: A somewhat similar situation to what it would be if a man wanted to buy his groceries from a wholesale grocery man.

Mr. Kirby: Yes, sir, the principle is the same in nearly all merchandise.

Mr. Cowan: That is considered a moral element in the trade, in the wholesaling and retailing of almost all commodities?

Mr. Kirby: Yes, sir.

Mr. Cowan: In the ratio of the amount of consumption, what proportion, in your opinion, of the yellow pine material, is purchased by railroads in the country for their own use, if you can give us some approximate idea.

6478 Mr. Kirby: Well, under normal conditions the railroads buy from long leaf mills somewhere from 25 to 38 per cent of the output of long leaf mills; that is, when there is construction work going on, and the conditions throughout the country are normal, or what you would call prosperous. At the present time, or since the panic of 1907, the railroad purchases have been only for repairs and improvements, and they have probably not reached as much as ten per cent of the output of long leaf mills. Their purchases from short leaf mills I am not so well posted about, because that is largely car material or ties for treating plants.

Mr. Cowan: I observed in the testimony of Mr. Ripley given before this Commission in connection with the rate advance cases recently heard, that he estimated that the railroads of the company consumed fifty per cent of the forest products. How do you harmonize that with your statement?

Mr. Kirby: Well, forest products include hewn ties and piling, and all that sort of thing, the wood. In my statement here I was talking about the products of mills.

Mr. Cowan: I understand, but I wanted to punctuate the point.

Mr. Kirby: For instance, we furnish the Santa Fe about seventy-five or eighty million feet a year of hewn ties, and probably
6479 fifteen or eighteen million feet, I don't know just how much, of piling.

Mr. Jeffery: What number of ties does that amount to? Excuse me for the interruption.

Mr. Kirby: 2,500,000 six by eight, with a lot of switch ties, and I do not know how many sets; but we have never furnished them that much, 2,500,000, but we hope to.

Mr. Jeffery: That is a pretty large percentage of the total number they use, is it not?

Mr. Kirby: Well,——

Mr. Cowan: I think, if I may be permitted, I am going to try to give Mr. Kirby a pretty thorough examination on the direct, and it

would be a great accommodation to both myself and Mr. Kirby if counsel would let us go ahead with the direct examination, making their notes, because I will then be able to continue it with some regularity, which otherwise I could not.

Mr. Kirby: Well, I started to say, concluding that inquiry that you made, that while we sold the Santa Fe that much of forest products, we probably did not sell them ten million feet of lumber
6480 out of the mills. The figures are here, but I do not remember just what they are.

Mr. Cowan: What proportion of the ties used, speaking in general terms, are hewn, and what proportion sawn ties, and why are the hewn ties used?

Mr. Kirby: I have not seen the statistics to take the entire country, of what proportion are hewn. In our country down there the Santa Fe uses hewn ties in every case where they are available for the reason that they take treatment better, they are a little cheaper, and then they are a little bigger. Now the specification under which we furnish ties to the Santa Fe is that they shall have an 8 inch face; that is, we will take a little tree and hew two sides and peel the edges, and there is a tie. You put a seven inch tie plate under a big rail on a six by eight tie, and your spike is so near the edge it does not hold very well. But you take one of these pole ties you have more surface, and it is more desirable for that reason, and besides it is cheaper.

Mr. Cowan: Where are the points of the greatest consumption of lumber? I mean localities, when I say points, the greatest consumption of lumber of the sort we are talking about.

Mr. Kirby: Well, that changes, Judge. I would not know
6481 how to say, because I have not the statistics.

Mr. Cowan: But generally speaking, not by statistics, where are the general districts which consume yellow pine lumber?

Mr. Kirby: Oklahoma, Kansas, Nebraska, Iowa, Illinois—in fact, the whole country. We ship as far east by rail as Buffalo, New York, and ship as far west as Denver and beyond.

Mr. Cowan: You do not ship to the Atlantic Seaboard by rail?

Mr. Kirby: No.

Mr. Cowan: Is there any considerable amount of lumber shipped by the coastwise boats to the Atlantic Seaboard?

Mr. Kirby: There is a very large amount of yellow pine used in the New York district, but it does not come from our territory, so I am not posted. In the main it would come from Georgia, the Carolinas, and perhaps Alabama and Mississippi and Florida, ship into New York. I am not advised.

Mr. Cowan: You do not ship much in the northwest direction beyond Colorado common points?

Mr. Kirby: No.

6482 Mr. Cowan: You do go up on the Missouri River, Missouri River territory, and the states on each side as far north as Iowa and Nebraska?

Mr. Kirby: Yes, and we ship some into the Dakotas.

Mr. Cowan: What figure does the freight rate cut in the market places to which the lumber goes?

Mr. Kirby: The freight rate fixes the market for you, because the price is a delivered price always, and the cost to the consumer is what it costs to get the lumber to his locality.

Mr. Cowan: How do you figure the price in your mill—do you figure a price at the mill so that if I buy, living in Kansas City, and get a 22 cent rate or 24 cent rate, and another man buys at Denver who pays a 37 cent rate, do we get the same price at the mill?

Mr. Kirby: You do not. You get the mill price plus the freight rate.

Mr. Cowan: So the standard is the mill price and the freight rate added, and the dealer who purchases pays the whole thing?

Mr. Kirby: Yes, sir, he does. We base our price list on the common point rate to any point of destination, and our price list
6483 will be our mill price plus the freight rate to the common point of 17½ cents; if the freight rate is higher than that or lower than that, then the price is either raised or lowered to the buyer, according to what additional amounts he pays in freight.

Mr. Cowan: It was said by Mr. Johnson on the stand the other day that while his companies, and I believe he expressed himself generally that was the case with others, that lumber companies had price lists, that these lists are not adhered to, but the lumber is sold in competition with the trade, either maintaining the scale or discounting the price list, according to the circumstances. Is that your experience?

Mr. Kirby: That is true, yes, sir.

Mr. Cowan: Is that generally the case in the lumber trade?

Mr. Kirby: So far as I have any information, I see my competitors' prices once in a while, and hear of them through a dealer and I find that we have often quoted under him and he got the business; I don't know what he got, but I am convinced he did not get the price he was supposed to quote, so I take it there is not a salesman who adheres absolutely to his price list all the time.

6484 Mr. Cowan: When you spoke a while ago of the price list in connection with the freight rate, that is simply showing what the general rule is with respect to adding the freight to some standard price, and as a matter of quotation to the public.

Mr. Kirby: Yes, sir, all manufacturers who put out a price list of that kind, of the kind that I told you about. That is our practice, but all manufacturers sell at the mill price, that is every manufacturer's price is influenced by what it cost him to get the product from his mill to the point of sale.

Mr. Cowan: I understand that the blanket system of rates applies so that from a given territory the rates are the same from all points in the producing territory to any given market; for example, I may use Fort Worth, Kansas City and Chicago. Will you explain briefly the system that exists with respect to the blanket rates?

Mr. Kirby: I understand the blanket rate to have been put in—of course, I had nothing to do with putting it in—to promote the general thrift of the country. In the first place, not meaning to put one interest above the other, but in order that all manu-
6485 facturers under the blanket system are permitted to sell in all markets, so that they have an equal opportunity of get-

ting to those markets, and all buyers in those markets are permitted to obtain the competition of all manufacturers throughout all the territory for their trade, so that it is one of those plans to promote general thrift and equality of opportunity to every man, whether he be buyer or seller.

Mr. Cowan: And the object of that is, so far as the freight rate is concerned, to put both the manufacturer and the dealer on an equality?

Mr. Kirby: Well, it is to put manufacturers on an equality, and it is to give all dealers the benefit of competition from all manufacturing sections.

Mr. Cowan: Equally to each blanket territory where the rates apply.

Mr. Kirby: Yes.

Mr. Cowan: But for the object of equality, could the blanket system be justified, ignoring distance as it does?

Mr. Kirby: Well, I should think not. I think that is the sole purpose.

Mr. Cowan: Do you think the system is necessary?

Mr. Kirby: I do.

6486 Mr. Cowan: That is, because you think equality is necessary?

Mr. Kirby: Yes.

Mr. Cowan: Are you acquainted, or do you know the effect upon this equality that appears to be the general governing principle of having made these blanket systems, of railroads' divisions between themselves? I will give an example. Take the Rock Island and the Santa Fe, both connecting with the Denver & Rio Grande at Pueblo, and the Denver & Rio Grande is the purchaser of timber, ties or lumber in the yellow pine district. State whether or not the divisions that would be given as between the Denver & Rio Grande and the Rock Island, or the Denver & Rio Grande and the Santa Fe, would determine the locality to which the Denver & Rio Grande would go to buy a given sale of lumber.

Mr. Kirby: Yes, sir.

Mr. Cowan: It would determine it?

Mr. Kirby: The Denver & Rio Grande in that case, whatever its division was, could be used to reduce the cost of the lumber at its connection, of course, and it would be influenced as any other purchaser, it being desirous of buying as cheaply as it can; that

6487 would of course enable them to buy cheaper from a mill upon a line of road which gave a large division than they could from a mill upon a line of road which gave the Rio Grande the smaller division.

Mr. Cowan: That illustrates the necessity of having equality with respect to the divisions of rates as well as the rates themselves?

Mr. Kirby: Yes, sir.

Mr. Cowan: Do you have in mind an instance in which any important order of lumber was in fact transferred from one locality to another, on account of a change in the amount of division?

Mr. Kirby: I have in mind a particular instance, that is probably the one you had in mind when you formulated your question. The

Denver & Rio Grande were in the market some time ago for a large amount of ties. Our mills are located largely upon the Santa Fe, but we went after that business. We found that the Denver & Rio Grande's division on lumber tonnage originating at Santa Fe points and delivered on their line was about four cents, whereas with other lines of road down there they had in a division of seven cents, and the business after we had secured it as we thought on an equal freight basis was lost to us because of this condition. The
6488 other lines of road gave the larger division, and the Santa Fe mills lost out.

Commissioner Harlan: You are now referring to the effect of divisions where the railroad is the purchaser of the material.

Mr. Kirby: Yes, sir; and the effect, Judge, of the through rate, the net rate to the buyer or seller, and its influence upon the purchase.

Mr. Cowan: The place of purchase?

Mr. Kirby: Yes, sir.

Mr. Cowan: Was this division that the Denver & Rio Grande got which took the trade away from you in a given case changed, as you understand it, was the amount of that division changed after you had secured the order for the lumber?

Mr. Kirby: I so understood, Judge, but I am not sure about that, because I am not on the inside, but I was told that that was the reason for withdrawing the business from us, that other roads had increased their divisions, and they could buy cheaper.

Mr. Cowan: I suppose those orders for lumber from large
6489 concerns of that kind are generally subject to cancellation by either party under certain conditions. How is that?

Mr. Kirby. Oh, Yes.

Mr. Cowan: What is there to show that? When the order comes in is it generally stampd with a stamp, or has it written upon it "Subject to the right of cancellation within so many days"?

Mr. Kirby: No, it is just commercial practice.

Mr. Cowan: It is just a practice?

Mr. Kirby: It is just a universal practice. You go out and sell a dealer 100 cars of lumber, and if he concludes he does not want it, he cancels it. If you want his business in the future, you cannot afford to make him take it. You probably could, as a legal proposition, but you do not. It is the same with railroads, and any other purchasers.

Mr. Cowan: So in your opinion the divisions are capable, at least, of being so adjusted as to determine the place at which the purchase may be made by a connecting road which is the purchaser of supplies?

Mr. Kirby: Yes, sir, anything that reduces the cost of that transportation to the party interested in its delivery, whether it be the purchaser or the seller influences the sale, because the freight
6490 rate is a part of the cost in getting the lumber from the mill to the point of consumption.

Mr. Cowan: What is the extent of the pine forests, generally speaking, competing with each other in this yellow pine business?

Mr. Kirby: I could not tell you in billions of feet, because there

are no reliable statistics, but there are various estimates; but the area is from Georgia to Texas, including Missouri, Arkansas, Louisiana, Texas, Mississippi, Alabama, Florida and Georgia.

Mr. Cowan: At the present rate of cutting of yellow pine, what is the general opinion of well informed lumber men as to how long it will last?

Mr. Kirby: Around 15 years.

Mr. Cowan: What effect does concrete and steel construction have upon the consumption of lumber for building purposes generally?

Mr. Kirby: Well, they reduce the consumption in general lines. For instance, steel in the manufacture of cars has largely reduced the use of wood; and concrete in various kinds of construction has subsituted wood. But the statistics show that the per capita
6491 consumption in this country increases, notwithstanding the competition of steel and concrete, and other characters of construction.

Mr. Cowan: Will you describe the method of milling and lumber operations briefly in the past and the evolution up to the present time within your knowledge, of the yellow pine country and elsewhere, if you please.

Mr. Kirby: Do you mean the operation of the mills?

Mr. Cowan: Yes, the method of logging and milling.

Mr. Kirby: Well, it used to be at least 20 years ago, 28 years ago, when the Kountzes built a line of railroad down in East Texas, now part of the Southern Pacific, through the county where I was raised, in making ties, the practice was for the mill man to set up his little mill out in the forest, of course right on the railroad track, and he would haul his logs in with oxen. Then a little later, when his timber got farther away, he laid down wooden rails and put some mules on trucks and hauled his logs in in that way. And in a little while, in the process of evolution, he got in a little engine and put on that truck, and pulled his logs in with steam.

Mr. Cowan: Over the wooden rails?

Mr. Kirby: Over the wooden rails. Then he substituted
6492 steel or iron for the wooden rails, rather small to start with, and then got him some regular little locomotives; and so in the modern method of logging at the present time, we use the best character of railroad that we have got the money to build; other conditions of course being considered as to the permanency of it, that is the period you want to use it, and the best motive power. Where we used to haul logs with a couple of mules which would cost us 75 dollars, we now haul logs with a locomotive which will cost us $12,000. So that is the process of evolution insofar as the logging is concerned. The mills have operated in substantially the same way, and are still doing it. Formerly, 30 years ago, we did not have in our territory down there, any edgers or trimmers, or any method of utilizing the outside of the log; we used thick circular saws which cut half an inch; and now we used thin band saws and gangs, and then we have re-saws to take up the slabs, so we try to burn up nothing but the bark, and save every piece of lumber which is four inches wide and four feet long, and sometimes

smaller sizes. So there has been evolution both in the logging end and in the milling end, and it is going on constantly; they are improving every day in their methods.

6493 Mr. Cowan: I suppose the saving of sawdust which is converted into lumber now, compared with what it used to be, is a very large item.

Mr. Kirby: It is a very large item, and of course as the timber grows more valuable they use every device to save sawdust and waste of every kind insofar as the mill operations are concerned.

Mr. Cowan: Well, to-day is a railroad, and by that I am not talking about a corporation, but about a railroad, and the facilities used in operating it a necessity in a mill operation in the country in which we are talking about.

Mr. Kirby: Absolutely.

Mr. Cowan: Now will you state the number of sawmills which the Kirby Lumber Company has, where they are, and how they are operated, having relation in particular to the railroad operation in connection with these mills; and you may just take them up without my asking questions, and describe them in a brief way, of course, and give the circumstances and the situation surrounding each, and the matters pertaining to the manufacturing operation, and to the disposition of the products, the getting in of the logs, and so on. And in that connection I wish you would tell here,

6494 before you get very far along with it, the method in which they cut these trees and get them on to the tram. Nobody has told that, and we would like to have it go in the record along with this, and without my asking questions you may take up that subject.

Mr. Kirby: You have given me a big task, Judge.

Mr. Cowan: Well, you probably have a list of your mill there.

Mr. Hancock: I have a list here (handing paper).

Mr. Kirby: I do not think I need it.

Mr. Cowan: You are personally familiar with the whole matter from the stump to the bank account?

Mr. Kirby: Yes, sir, I have run rabbits where nearly every track is located down there. The Kirby Lumber Company owns thirteen mills, and with each one we have a railroad. At eleven of these mills the railroads are standard gauge, and of standard construction. At the other two they are narrow gauge. At Bronson we maintain about 12 miles of standard gauge railroad running easterly in the direction of Hemphill. Bronson is a town in Sabine County of 1,000 or 1200, I suppose, and Hemphill is the county seat of that

6495 county. Our railroad runs out within four or five miles of the county seat. We operate that railroad for the purpose of bringing logs to the mill, and for no other purpose.

Answering your question, I presume at this point as well as any, as to the method of getting the logs upon the car, in the first place those logs are sawn down—that is, the trees are sawn down and cut into log lengths by contract. I suppose every manufacturer pays about the same price for that service. Then some manufacturers pick up those logs after they are cut into log lengths with teams; but most

of them nowadays do it by steam. While we used to cart entirely with oxen, then we afterwards substituted mules as being quicker and more economical, but of late years most of us use steam. That is, we have a steam skidder, and sometimes we throw the cable out automatically on a line, but at other times it is carried out by a horse, and there is a tree out there 500 or 1,000 feet away which has been felled and cut into log lengths: the cable is carried out there and grabs on to the end of the log, and you pull it in by steam, your skidder being located upon your railroad, and being elevated
6496 so that your empty logging car can go under it; and then that skidder is sometimes as well a loader? that is, you have another derrick and drum, and you pick up that log when it has been brought in alongside your railroad track, and lay it on your car, and keep on that process until you load your car. Then your engine pulls ahead, and there is another empty. That is the process most manufacturers follow now, that is the steam process.

Mr. Cowan: Do you cut the trees next to the railroad first, or go farther away?

Mr. Kirby: No, you go away from the railroad so as to get the debris always behind you. Now, your distance will depend upon your cable, and upon the machine you are using. Sometimes they will go out a thousand feet. So you lay the railroad track, this temporary railroad track upon which you locate your skidder, and for anywhere from 400 to 1,000 feet on either side you are throwing out your cables and taking up all the trees beginning at the farthest extent of the length of your cable to start with, so that the tops are always thrown behind you, and not in the way of your operations. Then when all the timber in that area has been removed, your skid-
der is then put on another track lying parallel or substan-
6497 tially so, to that one the necessary distance away, so then the cable on one side of your loader will reach the point where you have just operated, and extend into the timber there. So that is the process at the present time. And that track expense, of course, is pretty large for laying these temporary tracks. You have got to have tracks sufficient to get your train over, although you do not tramp it, and you do not often pay much attention to grade, although you have to do some work, and of course clear your right of way; but the picking up of the track is a large expense in everybody's logging operation. Then it is brought off those spurs on to your main line.

Commissioner Harlan: Tell us a little about a skidder, and its construction, and the length. Is it a mere structure near the track for loading the logs on the track, or does it run out with the cable?

Mr. Kirby: No.

Commissioner Harlan: You haul the logs over the ground or have some sort of truck?

Mr. Kirby: We drag them right on the ground.

Commissioner Harlan: So the skidder is simply a structure at the railroad track to aid in loading?

6498 Mr. Kirby: Yes, sir, right over the track, and it is usually built so it can be elevated or lowered, but you make it stationary and tie it with guy wires.

Commissioner Harlan: Logs are pulled by the cable right over the ground?

Mr. Kirby: Yes, sir, and your railroad track runs under the skidder, and the log train comes down and backs under the skidder, and you pull through one car at a time, and when one car is loaded, the toggle chains are fastened to another at that point, and it is loaded.

Mr. Cowan: The length of your cable therefore, will determine the distance the spur loading tracks will be apart in the forest?

Mr. Kirby: Yes, sir. Sometimes you do not have a steam skidder but pull them in by mules and carts and lay them on skid poles by the side of the tracks, and another team will come along and move the logs on the logging cars; the same process as with the steam skidder, but instead of that the steam skidder shakes or pulls the log by cable, where your teams will cart them. That is the difference.

Mr. Cowan: On log wagons?

6499 Mr. Kirby: Yes, sir, a logging cart which runs astraddle of a log or two or three and drops them along the railroad track, and when your train is ready, there is another loading team that loads the logs on the car.

Mr. Cowan: Now, then when you get to where your junction point of the spur track is, in the practice with you, do you send the same engine on which spotted the ties for loading to the mill, or stop it and turn it over to another?

Mr. Kirby: Well, rarely so. There is a cable on this skidder as a rule that will handle your empties; you do not have to have the engine to pull your cars; the steam power that operates your skidder will move your train with the cable, rock it on to the track end.

Mr. Cowan: For loading purposes?

Mr. Kirby: For loading purposes. Now you take those cars when they are loaded and pull them off on the spur track and set them out on the main line until you have a train. We have a siding there on the main line. And you haul your loads there until a train is made up, and then ordinarily you have an engine that has already gone in perhaps with one train load, and it may be a train load of ten, or it may be a trainload of forty cars, it is different in different

6500 localities, and if the mill is not far away, they often run with a lighter load than if you have a longer haul. Then your main line engine will take up those cars and carry them into the mill, and that main line engine often operates solely on the main line, and does not do any loading or operation on the spur track.

Mr. Cowan: Is it customary to carry on loading at different spurs during the same time, so the main line engine will get the output from various spurs?

Mr. Kirby: Yes, sir, and where you do not load with steam, you are bound to have an engine to handle your train that you are loading.

Mr. Cowan: In that case you would have to have an engine?

Mr. Kirby: Yes, sir, where you do not load with steam, where you have not got a steam skidder or loader, where you load with mules or a force of that character, of course you have to have an engine to

operate the train, otherwise you might load one car or a few cars in a train, but you could not load consecutively, nor couple them up continuously.

Mr. Cowan: Does this method you have described generally apply to the principal saw mills in the country, so far as you know?

6501 Mr. Kirby: So far as I have any information, yes, sir.

Mr. Cowan: And it does apply to all your operations?

Mr. Kirby: Yes, sir.

Mr. Cowan: Is the loading or bringing in of logs to the spur tracks, in any case with you, done by the use of mules or teams, or do you in all cases use the loaders?

Mr. Kirby: No, we load some with teams. We operate at 12 or 14 points, and we only have six skidders.

Mr. Cowan: You may proceed with the description of your other mills now, having gone into the question of the detail of operation.

Mr. Coleman: If you do not object, there is one little point I am not clear upon. How would you use the skidder to get the car down?

Mr. Kirby: With a cable. You mean to move the train?

Mr. Coleman: Yes, from the loading point down to the junction.

Mr. Kirby: No, you could not do that; you could only move the train through your skidder. You could not move it beyond that.

Mr. Coleman: That is what I wanted to find out.

Mr. Cowan: Now, taking up this operation at this mill

6502 you have spoken of,—what was the name of it?

Mr. Kirby: Bronson.

Mr. Cowan: How do you get the logs to the place where they are sawed; I mean by that you first unload them in a pond?

Mr. Kirby: Yes. After we have gone through this process of loading the cars and making up the train, you haul it over your main line railroad to the saw mill, alongside of your log pond, and then you unload the logs off the cars into that pond. Then they are brought up with a bull chain out of that pond into the mill. The logs are sorted in the pond so as to fit your orders, and the logs you want to saw at any particular time are selected by the log pond man, and they are pushed on to the chain and carried up into the mill?

Mr. Cowan: How do you get your output of your lumber to the cars? You load it on to the main line track in this particular instance you speak of?

Mr. Kirby: The Santa Fe sends the cars into our mill, and we load them out. We load from a dry shed, or sometimes from the timber dock right at the mill, depending on what you have to load, or from the yard sometimes, if you are shipping rough

6503 stock.

Mr. Cowan: Are extensive lumber yards where lumber is stacked, necessary at large mill operations?

Mr. Kirby: Always, yes, sir.

Mr. Cowan: Is the planing mill operation carried on at the same building where the storing is done?

Mr. Kirby: Not in the same building, no; it is a separate building a few hundred feet away. The idea is——

Mr. Cowan: Yes, I just wanted to inquire why that was?

Mr. Kirby: Well, you save room and save insurance, and often for economy of operation. For instance, your stock that is not dry kilned will have to go in the yard and stay for sixty days to air dry, because you do not plane any wet stock or green stock; you do not use any of that character of stock in your planing mill. And you have to have your planing mill a little removed from your saw mill, otherwise you would carry the lumber away out there and stack it, and then bring it in, whereas now you stack it between the mill and the planing mill, and then you are always moving in the direction of the car loading track.

Mr. Cowan: How do you transport the lumber from the saw to the places to be stacked in the yard, or the dry kiln?

6504 Mr. Kirby: In most cases we do it on little dolly cars with a mule. The lumber is sorted on the sorting tables, and certain of it will go into the dry kiln, and it is loaded on cars and pushed into the dry kiln, which is usually about a hundred feet away, and the other lumber going into the yard is put on these dolly cars and pulled into the yard.

Mr. Cowan: When it goes to the planer, does it go through the same operation?

Mr. Kirby: The stuff will go to the planer either from the dry kiln or from the yard. Often the car on which this was loaded for the dry kiln sets in the dry kiln during the process of drying, and then when the process is complete, the same car is pushed on over to the planing mill, so you do not reload it.

Mr. Cowan: By car you mean a little dinky truck?

Mr. Kirby: It is a mere truck. We call it a car because it operates on rails, and for that purpose we have small steel rails.

Mr. Cowan: And when your lumber comes out of the planer then, it is carried by some sort of truck——

6505 Mr. Kirby: Carried by the same trucks to the car.

Mr. Cowan: To the railroad car, box or flat, or whatever it is loaded in?

Mr. Kirby: Yes, sir.

Mr. Cowan: This process from the stump to the loading on the car for transportation to market is one of continuous transportation as a part of the saw mill operation.

Mr. Kirby: All the time.

Mr. Cowan: Is there any way to segregate one from the other, so as to say one is not of the same necessity as the other?

Mr. Kirby: No, sir, they are all of the same consequence. You cannot get——

Mr. Walter: Some of these questions in form have not been objected to, but I would prefer Judge Cowan should ask the question so it will pass muster as to being leading or not.

Commissioner Harlan: You have observed the admonition of counsel. Will you endeavor to do what you can, Judge Cowan?

Mr. Cowan: I will do what I can to accommodate Mr. Walter in that particular.

6506 Now you may go ahead with your list of mills.

Commissioner Harlan: Let me ask about the Bronson mill. You say the Santa Fe puts the car at the planing mill?

Mr. Kirby: No, not at the planing mill. We do that ourselves. The Kirby Lumber Company does all the switching at the lumber mill.

Mr. Cowan: Is it done with a locomotive of your own?

Mr. Kirby: By our own locomotive, yes, sir; one of the locomotives which handles our logging train switches — the planing mill.

Commissioner Harlan: Where do you get the car from the Santa Fe?

Mr. Kirby: They set it out for us on a connecting track, their track; but the track into the planing mill, however, is our track.

Commissioner Harlan: Built by you?

Mr. Kirby: Built by us.

Commissioner Harlan: And in this case how long is that track?

Mr. Kirby: Well, I cannot give you that, sir. I could not even guess at it.

Mr. Marble: Is it a matter of miles?

6507 Mr. Kirby: No, it is not over 2,000 feet, I should not think, anyway.

Mr. Garwood: How long?

Mr. Kirby: I should not think it was over 2,000 feet; a mere estimate.

Mr. Cowan: What other buildings have you at your mill besides the saw mill and the planer and the dry kiln? You have an office, I suppose?

Mr. Kirby: Yes, sir.

Mr. Cowan: Have you any other buildings customarily?

Mr. Kirby: Well, we always have—now this town at Bronson, that is a country town; but in most localities our mills are located where we control all the property, and of course we have a great many buildings, residences for employees and store buildings, and grain houses and——

Mr. Cowan: But the tracks inside your plant reach ordinarily all the buildings?

Mr. Kirby: They would only reach the storerooms to store hay or potatoes, or anything of that sort used in our stores department.

Mr. Cowan: Do they come into your lumber yard?

Mr. Kirby: Oh, yes, they go all through the lumber yard.

6508 the tracks are all through the lumber yard and to the planing mill.

Mr. Cowan: Now at Bronson is the plant defined by a fence or other enclosure?

Mr. Kirby: No.

Mr. Cowan: How many miles or feet of track have you inside of what we might speak of as the plant itself where you switch back and forth?

Mr. Kirby: I can get you that later. I do not remember it.

Mr. Cowan: I do not know that it is important, but do you remember it in a general way?

Mr. Kirby: I should think there are about 2,000 feet of that planing mill track.

Mr. Cowan: That is to the Santa Fe interchange track?

Mr. Kirby: Yes.

Mr. Cowan: But I mean between your own buildings.

Mr. Kirby: Then there are a number of tracks laid about that planing mill, but I cannot tell you whether it is three or five.

Mr. Cowan: I do not know that it is important.

Mr. Kirby: But we handle all the cars to and from that
6509 Planing mill. Of course that is our business to get it to market. If we did not, we could not ship from that mill. Ordinarily, however, the Santa Fe comes into our planing mills and does that work, but they decline to do it at Bronson because the track is not constructed to suit them, and the physical conditions did not permit us to change it, so we do the work ourselves rather than abandon the mill.

Mr. Cowan: But at your mills the Santa Fe switches the cars in?

Mr. Kirby: Yes.

Mr. Cowan: And deposits them at the loading track?

Mr. Kirby: Yes.

Mr. Cowan: Whether in the planing mill or your storage yard.

Mr. Kirby: Yes.

Mr. Cowan: And when it is loaded they take it out?

Mr. Kirby: Yes, sir. We have a large double mill at Call, Newton County, which is two miles from the Santa Fe. We maintain the track and do all the switching from the mill at Call over to the main line of the Santa Fe. The Santa Fe sets the empty——

6510 Commissioner Harlan: Perhaps we will get at that mill in due course.

Mr. Kirby: Yes.

Mr. Cowan: How long is the main line and permanent track, or that which has been permanent in connection with the Bronson mill?

Mr. Kirby: That is about 12 miles.

Mr. Cowan: What sort of a railroad is that?

Mr. Kirby: It is a substantial standard gauge rail laid mostly with 35 pound new steel rail.

Mr. Cowan: What sort of locomotives do you use?

Mr. Kirby: Standard gauge locomotives. We use some rod engines, and a good many Shays, and I do not know about the assignment to Bronson, whether there is a Shay engine there, or whether they are rods.

Mr. Cowan: Do you haul other stuff than lumber at this mill?

Mr. Kirby: Other stuff than lumber?

Mr. Cowan: Yes.

Mr. Kirby: Well, we haul some stuff, yes.

Mr. Cowan: You have a statement, I believe, somewhere, as to all your mills, as to the amount of your traffic.

6511 Mr. Kirby: Yes, sir.

Mr. Cowan: And we will reach that when we have finished describing the various mills. Now describe the next mill.

Mr. Kirby: As I have started on Call, I will go to that and conclude it.

Mr. Andrews: Before you leave Bronson: You said you had 12 miles of main line track. You have not stated how much tram trackage you had to use at Bronson to get the lumber in.

Mr. Kirby: Well, I do not know just what that is, the spur tracks from the main line, I do not know just how much we have. Sometimes it is one thing, and sometimes it is another. I would have to know what section of land they were logging to know whether they had two miles of such track or four, and I do not know just where they operate.

Commissioner Harlan: On that point our records seem to indicate you have 7 miles at Bronson of what our people have regarded as main line track, and then underneath is a memorandum of twelve miles noted here in the timber track. Does that refresh your recollection as to the mileage of your permanent track at Bron-

6512 son?

Mr. Kirby: Well, we had been logging when I had the 12 miles in view over near Hemphill. In the last few months, perhaps within a year, it may have been as long as a year, we fell back to nearer timber, and this seven mile point would be on this nearer timber.

Commissioner Harlan: You still have five miles of track beyond which has not been taken up?

Mr. Kirby: We still have five miles beyond which have not been taken up, and which we cannot take up for a number of years, although there might be times when we are not using it.

Commissioner Harlan: Before you leave Bronson, it might be well to indicate whether you are hauling logs for anyone else over this 12 miles of track.

Mr. Kirby: No, nor at any other point.

Commissioner Harlan: Or any other merchandise?

Mr. Kirby: Well, we haul some merchandise for ourselves, and merchandise for the merchants that trade with us. They will consign the stuff shipper's order, and of course it is their freight until paid for.

Commissioner Harlan: On what sort of basis of compensation do you perform that service?

6513 Mr. Kirby: It is free. We do not charge anything for it. There is not enough of it to make it desirable from a railroad standpoint——

Commissioner Harlan: Well, is there a railroad standpoint; in other words, do you operate that railroad for the public as a common carrier?

Mr. Kirby: We do not, and we try to avoid that all the time, because in our state, Judge, that is not the only reason, but one of the reasons I might state here would be that you cannot take up a piece of road in Texas that is a common carrier, without the consent of the Legislature, and we would have a lot of investments there when our logging operations ended that would not earn interest on the spikes from the little traffic there is in the country.

Commissioner Harlan: Is there any community or outside interest on the Bronson line?

Mr. Kirby: Yes, the farmers along there, but their trade does not amount to anything much, and our front, about five miles to the front, is the town of Hemphill. There is no railroad there. It is the County seat. But there is not business enough there even at the town of Hemphill all thrown together to pay to operate
6514 a railroad where we have to run trains every day when the timber is done. Of course we could take it along with our present business and it would be a pick-up to that extent, but when we got through we would have a railroad there with no traffic, and perhaps no legislative consent to remove it.

Mr. Marble: Do you actually carry stuff that is offered to you by whoever offers it?

Mr. Kirby: Well, we do not as a rule. I do not know of anybody that has been refused, but it is generally understood that we do not do it. I do not know of anybody that has been refused, but we would like if they would not ask us.

Mr. Marble: You are willing to be a neighbor, but——

Mr. Kirby: Yes.

Mr. Cowan: You may describe your mill at Call, and the railroad operation.

Mr. Kirby: We have a large double mill at Call.

Mr. Cowan: What is meant by that? I have heard that expression several times.

Mr. Kirby: That is two sawmills under one shed; one is a circular saw mill, and the other a band saw mill. The Santa Fe owns the piece of track two miles long from our main line into Call.
6515 We maintain that piece of track, and we take empties for the Call mill at the Santa Fe junction.

Mr. Marble: What is the Santa Fe junction called?

Mr. Kirby: Call Junction, and we take them into the mill at Call and load them, and return the load to the Santa Fe at Call Junction.

Mr. Cowan: What is the length of your road?

Mr. Kirby: Our tram road running our of Call is thirty miles standard gauge part 60 pounds and part 35 pounds rail.

Mr. Cowan: Where does it run to?

Mr. Kirby: It runs northeasterly from Call up into that same county, Newton, at a point east of the town of Newton, about six miles, may be eight miles.

Mr. Cowan: Does it reach the town of Newton?

Mr. Kirby: It does not. It is tending in that direction. We will come right up through the town of Newton in time, because our timber comes right up to the town.

Mr. Cowan: What is the object of having the line thirty miles long?

Mr. Kirby: That is where our trees are, and we have to build to them.

Mr. Cowan: How far from Call is Kirbyville?

Mr. Kirby: Four miles.

Mr. Cowan: Is that also on the Santa Fe rails?

6516 Mr. Kirby: Yes. We have a double mill, circular and band at Kirbyville.

Mr. Cowan: I do not mean to go into that for a moment until we finish the operation of the railroad.

Mr. Kirby: We have 20 miles of standard gauge railroad extending northwesterly from Kirbyville up in the direction of Magnolia Springs, and we haul logs—all these lines are operated just as the Bronson line is operated in respect to the log haul.

Mr. Cowan: Is the manner and method of hauling logs on these main lines you speak of of your tram substantially the same?

Mr. Kirby: Substantially the same, yes, sir, at every point.

Mr. Cowan: Is it substantially the same as it is on these other lines serving other saw mills than the Kirby Lumber Company?

Mr. Kirby: Yes, sir. At Roganville we have about ten miles of——

Mr. Cowan: I want to get back to Call. How much spurs do you have at Call, what length of spurs?

6517 Mr. Kirby: Well, that depends largely upon where you are logging at a particular time. Generally there is in use there about five miles, and sometimes more, of these temporary spur tracks going out to your main line.

Mr. Cowan: All this railroad property and manufacturing property and everything connected with it belongs to the Kirby Lumber Company?

Mr. Kirby: Yes, sir.

Mr. Cowan: You have no separate railroad incorporation?

Mr. Kirby: No, nor organization.

Mr. Cowan: But you do keep separately your railroad operations?

Mr. Kirby: Oh, yes.

Mr. Cowan: Just like you would any other part of your manufacturing business?

Mr. Kirby: Yes, we keep separately what it costs us to feed a mule. You know we want to know what it costs in a particular mill, of course.

Mr. Cowan: Now as to the other mills, the amount of line of road and logging spurs and such special matters as you think material.

Mr. Kirby: We have at Roganville a single mill, and our tram road runs in the direction of the county seat of Newton

6518 County. We have been out very near to that county seat. We haul our logs about 12 or 13 miles to Roganville, and we do not do any business except for ourselves, and do not haul anything from that except for ourselves. Roganville is a country town in Jasper County, of four or five hundred people. There is no business of any consequence except our mill. Newton is the county seat of Newton County, and the Frisco road runs there, and it has no other railroad, and we are within two or three miles of the county seat, and there is no traffic in that country except our business.

Commissioner Harlan: Are there any farms there?

Mr. Kirby: A few.

Commissioner Harlan: What do they produce?

Mr. Kirby: Corn, and a little cotton and some sugar cane, potatoes and vegetables, generally for the supply of the mill trade. They have not anything much for shipment.

Commissioner Harlan: They send the cotton out, do they not?

Mr. Kirby: Yes, but a farmer rather than be bothered by you with only a bale or two would rather take it out on his cart two or three miles and save that cost, if it cost him anything, and a
6519 little road would not haul any cotton unless there was some way of rewarding the man who gave it to it as an inducement.

At Browndel we have a single hand mill and a re-saw with a capacity of about 80,000 feet a day, and we have, I think, about ten miles of railroad there, probably not more than six or seven operating at the present time. We have had much larger mileage around there in the past, because we have had a larger mill, and we are operating in another direction.

At Silsbee we have about forty miles of road. Silsbee is a town of 6,000 people located on the Santa Fe. Our railroad runs from Silsbee to Village, 24 miles, Village being a general town of probably 1,000 or 1,200 people, located on the Southern Pacific. We have there 23 miles or 24 miles of main line of railroad running between those two points, between the two termini. However, we spring tram roads off; we have two, one that logs the mill at Village, and one that logs the mill at Silsbee, and in those two tram roads we probably have 15 miles of temporary line that is taken up and shifted from time to time, as the timber supply in particular localities is exhausted.

There are some farmers along in that country, but they do
6520 not produce anything but hogs and cows for the locomotive to romp on; there is not any traffic much, except our own. We handle a good deal of stuff, merchandise, and foodstuff and grain, and all that sort of thing, but it is largely for our own use, and we make no charge. Sometimes we haul lumber from Silsbee over to Village in order to ship it out over the Southern Pacific, because it fits an order we have on the Southern Pacific, and we have got to move it.

Commissioner Harlan: That haul is how long?

Mr. Kirby: 24 miles. We do that ourselves and get nothing from the railroad or anybody else. The Mill Department, however, is debited in favor of the Logging Department $5.00 a car for that service, but that is just a method of keeping our accounts. Sometimes we take lumber from Village over to Silsbee. We often do that because we have no planing mill at Village, and we will take rough stock over to Silsbee and dress it and sometimes bring it back for shipment over the Southern Pacific.

Commissioner Harlan: Mr. Kirby, what becomes of this country after you have gone over it and cut down the trees, do you own the land?

Mr. Kirby: No.

6521 Commissioner Harlan: You do not own the land?

Mr. Kirby: No.

Commissioner Harlan: Is it taken up by farmers, in other words, is it a good country for agriculture?

Mr. Kirby: No, Judge, it is not a good country for agriculture, though there are areas down there that are capable of being made very productive by scientific farming with the right kind of fertilizer to aid it; because the soil is such that it holds the fertilizer well, and gives the very finest results, but in its natural state it is not productive except along the creeks.

Commissioner Harlan: Is it level country or hilly?

Mr. Kirby: As a rule it is fairly level country, but there are some sections rather hilly. Around Browndel and Bronson it is a hilly section. Up to the north it grows more hilly, but in the south part, down in the southern part of Jasper and Newton and Hardin Counties, and a large part of Tyler County, the country is practically level. Those forests reproduce themselves in the course of time. I do not know how long it would take.

Commissioner Harlan: Do they grow up in pine?

Mr. Kirby: They grow up in pine, yes, sir; that is, in
6522 the long leaf belt. Of course, in the short leaf there is another character of wood, but the soil in the territory growing long leaf pine does not seem adapted to any other but long leaf; that is, there is no natural growth up there. The country is open except for the long leaf pine, except for a little growth of brushwood along the creeks.

Mr. Marble: Do you have any hardwood in these tracts?

Mr. Kirby: Well, along the tracts there are oaks of all kinds.

Mr. Marble: Are you lumbering that?

Mr. Kirby: No, we confine our operations entirely to pine.

Mr. Marble: Is anyone lumbering that hard wood?

Mr. Kirby: Not in our locality. In fact, there is very little done in the hard wood way in Southeast Texas. I believe I have described all the tram roads.

At Fuqua on the Santa Fe, we have 12 or 14 miles of main line running down in the direction of an oil field at Saratoga. We operate that just as the others. It is a standard gauge railroad with steam locomotives and——

Commissioner Harlan: Where is the mill with reference to the Santa Fe's main line?

Mr. Kirby: It is on the main line, about 20 miles west of
6523 Koontz.

Mr. Cowan: How many mills have you altogether?

Mr. Kirby: 13.

Commissioner Harlan: Have you a mill at Bessmay?

Mr. Kirby: Yes, I had overlooked that. That is a double mill with two bands and a gang. We have been maintaining quite a large mileage there, probably 25 or 30 miles of main line. We are not maintaining quite so much now because we have moved in another direction. That is a standard gauge railroad laid in part with 60 pound rail, and in part with 35 pound, with seven locomotives, and used entirely to serve the mill; probably ten miles of tem-

porary line used in logging that mill nearly all the time, on account of its size.

Mr. Cowan: How many employees about, do you have at that mill? I mean in connection with the operation of that mill generally?

Mr. Kirby: I could not say, generally Judge. I would not want to make a guess at that.

Mr. Cowan: Well, a sufficient number to build up considerable of a town?

Mr. Kirby: The town of Bessmay is a town of probably
6524 2,000 people. The Bessmay and Buna, they call them all one; they are probably a mile apart. Our logging forces live at Buna, and the operating forces at Bessmay, but there is quite a little town around there, a number of stores and other establishments there; probably 2,000 people.

Mr. Cowan: Generally speaking you can give some idea. I have not any at all, and probably the Commission has not, and will want to know—what number of people does a large saw mill bring together as a community?

Mr. Kirby: Nearly any saw mill would bring together eight hundred to one thousand people, that is, as people.

Mr. Cowan: Who either live off the saw mill, or off one another?

Mr. Kirby: Yes, sir, there would not be much doing around Buna or Bessmay when the saw mill operation ceased. There are some farmers who raise stuff to trade with the saw mill people.

Mr. Cowan: Do they build their own houses?

Mr. Kirby: The saw mill company builds houses at local points. At large places like Kirbyville and Bronson and Roganville where there was a town before the saw mill was built, the residents of the town work at the mill, and they have their own homes.

6525 Mr. Cowan: Ford's Bluff you have not described.

Mr. Kirby: Ford's Bluff is a mill on the Santa Fe in Jasper County; it is a single mill, and it operates about 17 or 18 miles of narrow gauge tram road in logging. It will not do that permanently, but it is operating about that now, because the line north of the mill has not been withdrawn. We will probably operate less than that in the future, but we have been operating there about 17 or 18 miles of tram road for one little mill.

Commissioner Harlan: Is that mill on the Santa Fe?

Mr. Kirby: That mill is on the Santa Fe, and the spur line runs up the Naches River. This town is on the Naches River, and our line runs parallel to the river north, connecting almost with the Bessmay tram road.

Commissioner Harlan: Have you mentioned the Roganville mill?

Mr. Kirby: Yes, sir, I have described it.

Commissioner Harlan: And the Evadale?

Mr. Kirby: Yes, Ford's Bluff and Evadale are the same.

Mr Cowan: There are Mobile and Lyric which seem to be down on this list.

Mr. Kirby: Well, Mobile we are not operating.

6526 Mr. Cowan: Well, the plant is there.

Mr. Kirby: The plant is there. We had about 15 miles of narrow gauge. Those are the two narrow gauge, one at Ford's Bluff or Evadale, and one at Mobile.

Mr. Cowan: Where is that, please?

Mr. Kirby: It is in Tyler County, on the M. K. & T.

Mr. Cowan: And Lyric you have not described.

Mr. Kirby: That tram road was built to get ties. We have no saw mill on that railroad at all. We built a railroad out there 12 miles to get the ties for the Santa Fe.

Mr. Coleman: May I ask if Buna has another railroad.

Mr. Kirby: The Orange & Northwestern runs into Buna, Bessmay and Call.

Mr. Coleman: That is part of the Frisco line?

Mr. Kirby: That is part of the Frisco line.

Mr. Cowan: How do the conditions of the establishment of towns and the conditions with respect to farming and other production of lumber on the lines that you have described—the lines of the Kirby Lumber Company compare with the conditions on the tap lines, I will call them, serving other saw mills in that part of the state?

6527 Mr. Kirby: The conditions are substantially the same with all us lumber folks in the long leaf belt. They are substantially the same. Of course they vary in the short leaf. The character of the country, and the topography of the country changes, and the character of the logging and extent of the logging changes a little.

Mr Cowan: Does that extend along into Louisiana?

Mr. Kirby: Yes, clear up into Arkansas.

Mr. Cowan: When you say long leaf, you refer not only to Texas, but also in Louisiana?

Mr. Kirby: Yes, sir.

Mr. Cowan: You are personally familiar with the territory through this country?

Mr. Kirby: Yes.

Mr. Cowan: Varying in details, the general conditions *as* are substantially the same?

Mr. Kirby: The general conditions are substantially the same.

Mr. Cowan: The manner of logging operations and operating the saw mill and railroad to the mill are substantially the same?

Mr. Kirby: Substantially the same.

6528 Mr. Cowan: You have a statement showing the location and mileage, and the equipment and tonnage of logs, and camp supplies and operating expenses of your rail operations. Have you a statement of that kind?

Mr. Kirby: Yes, sir.

Mr. Cowan: You may file that table as an exhibit, but state the totals.

Mr. Kirby: We operate 206 miles of railroad, own 44 locomotives, 566 cars, and the approximate tonnage handled during the year ending June 30th, 1909, was 351,781 tons of forest products, and 6,277

tons of camp supplies in one form or another. The operating expenses of that 206 miles of railroad for that year was $399,683.24.

Mr. Cowan: Does that include any of the logging operations on the spurs?

Mr. Kirby: Yes.

Mr. Cowan: Is it all included?

Mr. Kirby: Yes.

Mr. Cowan: What is the proportionate cost of the logging operation on the spurs, if we estimated it say by the ton or carload, and the handling of those cars to the main line track, and the expenses of operation of the main line in pulling the logs to the mill, if you have some idea——

6529 Mr. Kirby: The main line expense should be relatively small as far as the expense goes.

Mr. Cowan: Why is that?

Mr. Kirby: Well, your main line expense involves only the maintenance, which is not much when your road is once in, and the movement of your trains over that part. That requires a very short time relatively. The time is consumed in making up your train, loading your cars, and so on, and when you run by steam you can run five or ten miles in a very short time. The expense, however, if you include interest account, would be another matter, because that would be a considerable item, your interest on the investment. But there is no interest on anything of that kind in these figures.

Mr. Cowan: That is because it is all one investment?

Mr. Kirby: Yes.

(The table so offered and identified was received in evidence, and thereupon marked Intervenor's Exhibit No. 1, Witness Kirby, January 30th, 1911, and is attached hereto.)

Mr. Walter: Will you not ask him why not, instead of suggesting to him?

Mr. Cowan: No, I believe I will decline to do that. Con-
6530 sidering the ratio of the investment in the railroad compared with the investment in the saw mill, is it or not your opinion that there would be any material difference in the cases at your mills to what would be the case with other mills if they had to have the same length of track.

Mr. Kirby: Substantially——

Mr. Garwood: Your Honor, it occurs to me that a general conclusion drawn from the entire record is one that the Commission should draw rather than counsel or the witness.

(Question read.)

Mr. Garwood: That depends upon various conditions covering a vast expanse of territory.

Commissioner Harlan: I am not sure that I understand that question, Judge Cowan.

Mr. Cowan: The point was in regard to the ratio of the expense or expenditures, perhaps it should be put, as between the saw mill and the railroad, whether in this case the ratio of investment is in his

opinion substantially the same or not with other saw mill interest where there would be a similar length of track or of railroad. In other words, he has a saw mill of a certain sort, and perhaps
6531 another lumber company has a similar saw mill and similar conditions some place else. Are there conditions in the country which would make them materially different as applicable to his mill than what they are applicable to others.

Commissioner Harlan: Do you feel you know enough about conditions elsewhere to give the Commission an opinion on that question? Have you gone over these other properties somewhat?

Mr. Kirby: Yes, there are neighboring properties down there in Louisiana. I have not been over Arkansas property to amount to anything, and all I know is what I have heard upon the witness stand here and general information.

Commissioner Harlan: I think considering the witness's wide experience he is competent to answer that question, and in substance I understand it to be whether if the conditions are substantially the same, he knows any reason why the cost of operating a railroad of like length with one of his railroads should be more at another mill than at his mill if the substantial conditions are the same.

Mr. Cowan: The cost of ownership and of operation of that part of the saw mill plant has a ratio to the cost of operating the saw mill.

6532 Mr. Garwood: I would ask that counsel's first question be read.

(Question read.)

Mr. Garwood: That question in that form I think it will be admitted, calls for the conclusion of the witness as applied to all mills everywhere regardless of the particular conditions applicable to each territory, and each mill.

Commissioner Harlan: Perhaps the question is subject to that criticism. Judge Cowan, suppose you direct the attention of the witness to his mills and other mills that he knows of where the conditions are substantially similar.

Mr. Cowan: I intended it to be confined to the part of the long leaf district where he is acquainted, and to ask whether there would be a different ratio of investment in railroads by reason of any local conditions that he knows of in his case, to what there would be in the other cases, if the length of track was similar.

Mr. Garwood. That is an entirely different question from that propounded by your Honor.

Commissioner Harlan: But we are going back to Judge Cowan's question.

Mr. Garwood: Yes. Now he asks if there should be, if I
6533 understand his question, a different ratio between the amount of the investment in the lumber railroad as compared to that investment in the milling properties with him than with some other enterprise. That, is seems to me in addition to other objections that readily occur, could not be relevant here because that is largely a matter of business judgment as to the ratio between the investments.

Commissioner Harlan: The witness may answer if he understands the question, for what it may be worth. What is your answer to the question?

Mr. Kirby: I do not know that I understand just what I am asked.

Mr. Garwood: I confess I do not either.

Mr. Kirby: But I can answer——

Commissioner Harlan: Judge Cowan will you put this question in some other form? I confess I have not grasped it, and apparently the witness has not grasped the point.

Mr. Cowan: The point to which I wish to direct his attention is the ratio of expenses for the railway part of plants and the sawmill part of plants, whether in his cases that would be fairly repre-
6534 sentative of what it would be anywhere in that district generally speaking, provided the length of the railroad was the same in each case, the ratio would be the same. Then length of railroad is not the same. We have longer railroads than anybody else, and our logging cost is higher than the average.

Mr. Cowan: I was asking about the amount of investment relatively in the railroad part of a sawmill plant and the sawmill part of it in your case compared to the relative investment of others, provided they have the same lengths of road.

Mr. Kirby: If they have the same length of road they all have the same investment, because the character of construction is substantially the same in every instance.

Mr. Cowan: The character of the country is the same, of course.

Mr. Kirby: Yes, sir.

Commissioner Harlan: You have stated if the character of the country and the length of the road and the use of it are substantially the same, the investment ought to be about the same substantially.

Mr. Kirby: Yes, sir.

Commissioner Harlan: What about the cost of operation? Do you know any reason why your road costs more or less to operate
6535 than another road doing substantially the same business, and of the same length, and in the same kind of territory?

Mr. Kirby: Our roads would cost more to operate than a road of the same length better built, but assuming that the construction cost is about the same, then the operating cost ought to be about the same. We think we are pretty economical in that line. Of course we do our best to get the work done as cheaply as possible.

Commissioner Harlan: Then to put what I first thought Judge Cowan had in mind, in my own way, suppose there are two mills substantially alike, with the same general modern devices, with the general same output, is there any reason why your investment in the railroad that is necessary to operate that mill should be any less or greater than the investment of the other mill providing the forests are the same distance from the mill.

Mr. Kirby: No reason, except sometimes there may be a physical reason; for instance, a man's timber may be beyond a creek or stream, and it would cost him considerable money to get across. There might be a physical reason of that kind, so——

6536 Commissioner Harlan: Of course, we would always understand that.

Mr. Kirby: Yes, but barring that, there is no reason why the cost should not be the same for operating both, the purchasing of the property and operating it.

Mr. Walter: We might suggest that instead of these generalizations that counsel produce here definite details as to these various matters he is asking about.

Commissioner Harlan: Well, you cannot produce details as to matters which do not lie within the absolute knowledge of the witness. He does not know the cost of other mills.

Mr. Walter: Yes, but of his own he ought to be informed.

Commissioner Harlan: Up to this time I must rule that the inquiry has been within bounds. I see nothing to strike from the record.

Mr. Walter: I am not asking that, but for further light.

Mr. Coleman: I endeavored to get a chance to say this before. It occurs to me that any question based upon a ratio of operating expenses to the mill investment should be determined. He has already stated what the operating expenses amounted to, $390,000. I think the proper way to solve the problem is to tell what the mill

6537 operations are, and then it would be a mathematical computation.

Commissioner Harlan: My attention was diverted. Will you state that again.

Mr. Coleman: The witness has stated in money the cost to operate the railroad which is an exact sum, and he is asked a question which requires him to state the ratio between the operating expenses of his railroad and mill expenses, and the operating expenses and expenses of another road and their mill expenses. He should not do that, but tell what milling expenses are, and then the question can go on.

Commissioner Harlan: Well, can you give us any figures that would enable us to test the accuracy of the statement you have just made?

Mr. Kirby: Of the mill operations?

Commissioner Harlan: Yes, you have given us on the exhibit which you had a moment ago, the cost of operating the various railroads. Now counsel suggests in order that we get an absolute basis for the judgment you have expressed, if we had in a particular case the cost of operating the mill——

Mr. Kirby: We could get to that cost. I haven't it at my

6538 finger tips. These figures——

Mr. Cowan: We will not want to put in the detailed cost of the operation of the mills. That branches, of course, immediately to the exact cost of the production of lumber and so on, which we have decided we do not want to supply.

Mr. Kirby: I would like to state in connection with this, Judge——

Mr. Coleman: And I wish to make this motion on behalf of the Santa Fe Railroad, to strike out the answer of the witness unless the ratio of the milling cost is given, and the reason for that will become obvious as we proceed in the case.

Mr. Marble: Mr. Commissioner, I do not understand that a man building a logging line out into the forests is entitled to any more or any less out of his freight rates, because his mill is a very expensive one or a cheap one, or economically managed or extravagantly managed. Now it may be that this is very relevant, but I do not perceive at the present moment what difference it makes what the ratio is.

Mr. Cowan: In order to save argument, we would have to decline to furnish the information. We have considered it.

6539 Let the matter be passed up to the Commission. If they should see fit to require it, even in that case we would only want to furnish it to the Commission. If these people want to know the exact expense of every bit of Mr. Kirby's business, we might want to learn it of the other men's business, but I do not think the lumber men here would desire and demand of one another that which would be an unfair advantage possibly, and could not be used for any valuable purpose here, as Mr. Marble has very well put it.

Mr. Garwood: It would seem to me that where the gist of the complaint in this case is a discrimination that is alleged to result from the construction and operation of railroads under a charter as common carriers, who as such are entitled to receive and do receive divisions of rates, where the intervenors and the witness complain that discriminations result as against them from those facts, that the inquiry into the cost of production, the selling price, his market, where he meets competition of others, is an unescapable field that the mind is naturally directed to, and it goes into that as the most necessary and proximate field of inquiry. If he has been excluded from a market——

Commissioner Harlan: Do you mean the mill cost is a proper inquiry here?

6540 Mr. Garwood: Yes.

Commissioner Harlan: I do not see why it should be, but I would like to have your views on the subject, Judge Garwood.

Mr. Garwood: The contention will be here that by reason of the operation of these short line roads which are also doing a common carrier business, or at least holding themselves out as such, by reason of money that they are supposed to make by the operation of the road, which if they make it goes ultimately to the pocket of the same stockholding interest, that thereby in some way, the lumber interest that also owns an interest in a railroad has an advantage in the production and sale of lumber. Now it would seem to me that you cannot escape the inquiry as to whether he is put at an advantage or disadvantage, or whether they are at an advantage or disadvantage. You cannot escape the inquiry into the cost of production and the selling price of the lumber. Why? Suppose they contend, as they must contend in order to sustain any such proposition as this, that they cannot sell as cheaply as those who are not situated as well as they are. That must be the contention; otherwise, I see no discrimination. Suppose they make that contention, and they

6541 must make it, then it certainly becomes an unescapable inquiry as to what you do sell at, and as to what the other man

sells at. If it should appear that his selling price is the one or the other, lower or higher than his competitors, it would certainly be relevant to that.

Then if he claimed that their cost of production is greater or less than his, certainly as resultant from the operations that we are inquiring into, it seems there is no way to get at any testimony that will be of the slightest benefit to Your Honors except by going into the actual cost. Now we have had opinions from almost everyone here. Why rest a case of this importance on opinions when we can get at the facts in the case?

Mr. Marble: May I be pardoned just one moment, because I think it was the thing I said which drew out the discussion from Judge Garwood. It seems to me the difficulty with Judge Garwood's view is this. He is assuming the Commission has jurisdiction over the entire field of industry. It has *not*. It is assuming that the discriminations which the Commission is set to correct are discriminations in anything affecting the marketing of products. We have no such jurisdiction. The Commission has jurisdiction to correct discriminations relating to transportation.

6542 Now then it might well be that Mr. Kirby's company bought its land at one dollar an acre, and that some other company bought its land at fifty dollars an acre, and that one must figure an income upon a small investment, and the other upon a large investment. It might be that Mr. Kirby's companies were favored in some way by the railroads, and that the other concerns were not, and you get into such a maze of indeterminable facts that nobody could tell them what the answer would be to any question. Now it may well be that the concern which pays the most for its land is the favored party in a discrimination by a railroad, an absolutely criminal discrimination, and that the concern which pays the least for its land is suffering from that discrimination, and yet through good investment it is such that it survives and crushes the favored party in the market. Now, then, this Commission is not set to correct the advantages which arise in any way except in the dealings with the railroad companies.

That brings me to my point. I do not believe the selling price of this lumber, or the cost of it at the mill is the thing which the Commission is set to correct at all, and the fact that the person

6543 discriminated against is crushed in the market is only evidence after all subject to explanation as to the way in which he suffers. If the Commission tries to cover too much ground it will succeed in covering none at all. If we have to take into consideration and undertake to correct the inequalities arising in any other way than transportation arrangements, we will spread over such a territory—I say we, through my employment by the Commission, but I should address them as an outsider—that it will succeed in getting a firm grip on nothing at all. So here, as far as I have to do with the matter, I shall argue that the Commission shall define in these cases what is transportation subject to the act, and having determined and draw a sharp line of cleavage between transportation subject to that and outside operations, then it should inquire

whether or not there is discrimination in the rates and the facilities for the transportation subject to the act and that advanages or disadvantages arising outside of that field do not concern the Commission. Now it may be that advantages under the act may arise otherwise than by divisions. I have that in mind during this discussion. There may be loans of money, contractual relationships, there may be devices by which the same result may be accom-
6544 plished for the concern which does not get divisions as for the concerns which do. Anything of that sort which arises with the transportation companies we should of course go into.

Mr. Walter: I was going to inquire whether this inquiry is to be limited to transportation companies. For example, take the investment here, in the railroad as compared with the investment in the mill, which he says bears a certain proportion; suppose the investment in the mill was made by the railroad or trunk line, are we not to look into that and see how it goes into the market? We are ready to offer anything that throws any light upon this, and there has not been anything asked but what has tended to the final result of getting to market, and we think this is one of the material questions.

Commissioner Harlan: No one has told us the cost of mill operations. That has not been asked of anyone.

Mr. Walter: But you have asked questions relating to it.

Commissioner Harlan: I think not.

Mr. Cowan: For the purpose of the record I will say first I subscribe to what Mr. Marble says with the one qualification,
6545 that in regard to the loan of money which may have been made by transportation interests, that I would have to disagree with him probably. I do not want to argue that now as it is not up. But in regard to the matter of discrimination and the matter of rates and advantages and disadvantages, I wish to say that there is nothing in the case either by questions I have propounded, by our petition, and nothing in the jurisdiction of the Commission under the Act which will enable the Commission to regulate, and therefore it would have no right to take proof to show that there was a discrimination arising out of anything except the transportation charge or some rule, regulation or practice in connection with it. And with that statement I will subscribe to what Mr. Marble has said.

Mr. Coleman: At this point, it seems to me, everybody agrees that the cost of the mill does not come into it, therefore the question asked Mr. Kirby, to compare his operating cost with his mill cost, and then compare that with his competitors, is plainly irrelevant, and I renew the motion that it be stricken out or at least; if you determine it is relevant, then we must insist on having the figures so we can figure with our lead pencils as well as Mr. Kirby.

6546 Commissioner Harlan: I think the suggestion made by Mr. Coleman is well taken, and all the evidence along this line may be stricken out except the one question, whether he knows any reason why it should cost more to operate another railroad in this same territory under like conditions than it costs him, and that is

asked this witness only as a test from one of long experience, of the figures that are already before the Commission.

Mr. Cowan: I do not think the Commission ought to exclude from this statement the actual amount that it did cost in operating expenses for operating the 206 miles of railroad.

Commissioner Harlan: No, my ruling expressly indicated that, as a test given by the actual experience of this witness of the correctness of figures, that are already in the record.

Mr. Walter: Have you figured in that the investment?

Mr. Kirby: No.

Commissioner Harlan: Just the cost of operation?

Mr. Kirby: Yes, sir.

Commissioner Harlan: Now proceed, Judge Cowan.

Mr. Cowan: The complaint of the Intervenors' petition, I wish to direct your attention to pages 2 and 3, of the intervening peti-
6547 tion, and reciting the names of certain railroads that operate in this territory, either themselves or by their connections, and transport lumber from these various tramways and saw mill industries either in hauling lumber or logs and charge therefor the regular through published rate, and allow the short lines and tramways divisions of said rate which inures to the benefit of the owners of the saw mills which said short lines and tramways serve, and to which they belong in whole or in part, which allowance or division of rates amounts to rebates, and an undue and unreasonable preference and charge in favor of the owners of the saw mills and shippers of lumber who own or are interested in the ownership and management of said short line railway serving such saw mill industries and constitute an unjust and unreasonable prejudice and disadvantage to the complainants and others similarly situated and shipping lumber under the same tariffs upon the same rates to the same and other interstate points, and who do not receive any such division or allowance out of the published rate. The effect is that complainants and others who do not enjoy such divisions and allowances are compelled to pay more for the same service in transportation of such lumber and the owners of saw mills and shippers who are the owners of and
6548 operating tap lines to receive such divisions of the rate."

Directing your attention to that allegation in the complaint, I desire to inquire with respect to the matter of divisions and how they operate, as is pleaded in the petition, to the disadvantage of those who do not get them.

Mr. Kirby: Well, those saw mill people who get divisions have the advantage to the extent of that division, whatever it may be, in getting to market. The equality of opportunity so far as transportation is concerned, is disturbed to that extent.

Commissioner Harlan: For example, or as an example, can you go into any more detail?

Mr. Kirby: Take the testimony that has been given on the stand. The Kirby Lumber Company, our rate to Chicago is 26 cents, and we pay 26 cents; and another man getting a six cent division would pay 20 cents. If a dealer in Chicago wanted to buy 100 carloads of

lumber, and often one dealer wants that much, a difference of five cents a thousand feet would make a difference of $750 on that order. Well, a difference of five cents a thousand feet is not more than three tenths of one cent per hundred pounds. Yet here is this fellow with his six cent division or his four cent division getting an ad-
6549 vantage that would not be five cents a thousand feet, but it would be $1.50 or $2.00 a thousand feet, and he is getting that out of the rate. Of course nobody objects is he can sell it for more, that is his business, and I think he should be commended; but I do not think he ought to get it out of the rate, the basis upon which all of us must figure.

Mr. Cowan: Now suppose that in all of these operations of lumber mills by means of logging roads through the sentence you used, and which generally seems to be in vogue, it was so arranged that everyone would be allowed an equal amount out of the through rate to the same point——

Mr. Kirby: That would not make any difference, that would be all right. But every miller gets to market then on the same basis. It is not a fact that one fellow pays a lower rate, that the rate is lower to the one man, and that it is higher to the other. If the rate is equal to all, it does not make any difference how much they get out of it.

Mr. Cowan: Do you think the amount of the divisions which should be allowed, if any were allowed to a railroad serving the saw mill, could in anywise be so adjusted as to be based on the cost of operation of that particular railroad?

Mr. Kirby: I do not know that I understand your question.

Mr. Cowan: Well, take a given railroad. Here is a rail-
6550 road of the Fullerton interests, we will say, down at Fullerton. Should the divisions they get be regulated by the cost of the operation of their railroad? Assume that they were entitled to a division, could it be done and equalized with somebody else, for example Mr. Crossett up in Arkansas, who may not make any money?

Mr. Kirby: Well, it is possible to do that, but I should not think it feasible; I should not think the regulating authority, which in this instance would be the Commission, would want to take up such detail as to that to base it on the profits of the operator, because they are not the operator.

Mr. Cowan: There would be such difference in the cost of operation of the different roads serving the saw mills by reason of their length and other conditions, that it would not be possible to have a division based upon the theory of paying the cost of the mill road operation.

Mr. Kirby: I should not think so at all.

Mr. Cowan: That would produce a worse inequality, if anything, than exists to-day?

Mr. Kirby: It would produce a great deal of confusion. You have no basis to figure on at all insofar as fixing the amount
6551 is concerned. If there is a division, everybody ought to get the same division, and everybody could get to market on the

same basis, but that is as to the transportation feature, and the fellow that has the high cost so far as his operation goes, timber costs or anything of that sort, that is his misfortune; it is not produced by the law, and cannot be regulated by the law I should not think.

Mr. Cowan: By an equal division if a division system should be adopted, do you mean a per cent of the rate, or so many cents per hundred pounds?

Mr. Kirby: So many cents per hundred pounds, I should think, would be a feasible method of handling it.

Mr. Coleman: May I ask Mr. Kirby, I do not quite get your answer. Do you mean that the tap lines should be handled so that every mill gets the blanket at the same rate?

Mr. Kirby: Yes, sir, that is what I mean, if any tap line division is to be allowed at all.

Mr. Coleman: That is the premise, yes.

Commissioner Harlan: How would you manage such a situation with your mill? You have one line that is 39 miles with a mill at each end. You have no haul to get to one line and 39 miles to get to the other. How would you meet such condi-
6552 tions?

Mr. Kirby: My statement was that I did not think the cost ought to be taken into consideration.

Commissioner Harlan: Of getting to the junction point?

Mr. Kirby: Of getting to the junction point.

Commissioner Harlan: Whichever road you take.

Mr. Kirby: Whichever road you take, yes, sir.

Mr. Marble: Would not that lead to the theory that if you went out from the main line to get your logs with your mill on the main line, that you ought to have the same division there?

Mr. Kirby: Any man that has got a sawmill ought to have the division, it does not make any difference how long his tram road is, whether one mile or forty, and he ought to have the same division because if his line is forty miles long, the chances are that he has overcome that disadvantage another way by buying cheaper lumber out there. But when he bought that timber he figured what it would cost to get it to transportation points, but those are conditions not created by the law, and I do not think the law can correct them. But as a transportation problem, the law can fix the condition on which we all go to market. If we are to maintain the blanket system, let us have it, but if there are to be favorites, I would like to have
6553 it figured in such a way so we could take care of ourselves if there was a way.

Mr. Cowan: Is it your opinion that the division system, considering the conditions with respect to the mill road serving them, the fact that in many instances they could not operate when the timber is gone, would it be practicable in your opinion to have equality upon any system of divisions, or do you think it is better to have the divisions all abolished and leave the blanket system of rates in effect? I am not speaking now of the legal right to abolish, but suppose there was nothing illegal in the way?

Mr. Kirby: I do not know whether it would make any difference

whether the divisions were paid or whether the divisions were withdrawn. What I contend for as a lumber man in the manufacture, and I think the principle is right, or I would not contend for it, I do not contend for it for any selfish reason of my own to get an advantage over my neighbor, but I contend for it because I think the principle is right, of equal opportunity for all insofar as the transportation feature is concerned. It is indispensable to every manufacturer, every fellow has got to go to market, he has got to use the railroad to get there. The rate to him under the blanket
6554 system is presumed to be the same, and the law forbids discriminations and favoritisms in those matters. I think we ought all to be on the same basis and paying the same rate. I am not discussing what that rate should be because I do not know, without any favoritism towards any. But insofar as manufacture is concerned, that is an economic matter that has to take care of itself all over the world. The law does not create the conditions under which we act, nor can it supply conditions that do not exist. It is a sort of doctrine of the survival of the fittest in that respect, the most capable will make money, and the incapable will fail, but certainly we ought all alike to have the opportunity to get to market on the same freight rate under the theory of industry in this country.

Mr. Cowan: Have you a statement by states of the output and sales of your mills?

Mr. Kirby: Yes.

(The statement referred to was received in evidence and thereupon marked Intervenors' Exhibit No. 2, Witness Kirby, January 30th, 1911, and the same is attached hereto.)

Mr. Cowan: I will ask you to read enough to illustrate some of summaries by months and by states. You might read the
6555 summary to show where the lumber goes to different states.

Mr. Kirby: This information was asked by Judge Garwood, and this paper was prepared in accordance with that request. This statement shows the states into which we have shipped lumber. It is the lumber delivery, the lumber that moved out of the mill from January, 1910 to November, 1910, both inclusive. We shipped into Colorado, Illinois, Indiana, Iowa, Kansas, Michigan, Nebraska, New Mexico, New York, Ohio, Oklahoma, South Dakota, Texas, Wisconsin, Mexico and then there are some export, and Pennsylvania, Massachusetts, Tennessee, a little bit to Minnesota, a little bit to Canada.

Mr. Cowan: Give the number of cars to each state.

Commissioner Harlan: Take a given month.

Mr. Kirby: The total cars are out here in this column for the eleven months.

Commissioner Harlan: Very well.

Mr. Cowan: Take the whole eleven months and read the total number to each state.

Mr. Kirby: Colorado 23 cars; Illinois, 910 cars; Indiana, 439 cars; Iowa, 569 cars; Kansas, 1860 cars; Michigan, 317 cars;
6556 Missouri, 750 cars; Nebraska, 702 cars; New Mexico, 112 cars; New York, 64 cars; Ohio, 251 cars; Oklahoma, 1257 cars;

South Dakota. 72 cars; Texas, 2,933 cars; Wisconsin, 124 cars; Mexico, 23 cars; export shipments 546 cars; Pennsylvania, 54 cars; Massachusetts, 103 cars; Tennessee, 24 cars; Louisiana, 2 cars; Minnesota, 14 cars; Canada, 3 cars; Wyoming, 1 car; Maine, 2 cars.

Mr. Cowan: Does that pretty well represent generally the range and ratio of sales of lumber?

Mr. Kirby: Yes, sir; sometimes we sell more in one locality, and sometimes less. The quantity and the localities change, this is fairly representative of the area which it is distributed over.

Mr. Wood: Would you mind having him read the total number of cars. It is a matter of computation, but I have not the details.

Mr. Kirby: 11,781.

Mr. Wood: For what period is that?

Mr. Kirby: Eleven months, beginning January 1st and ending November 30th, 1910.

Mr. Cowan: Have you got a statement that shows the amount of material sold to the Santa Fe?

6557 Mr. Kirby: Yes, sir. You mean the stuff shipped by the Santa Fe or to the Santa Fe?

Mr. Cowan: Shipped by the Santa Fe is what I mean.

Mr. Kirby: Yes, I have a statement there. That is a number of these same cars, but if they are not all accounted for, probably that is the export business.

"Statement of carload shipments of lumber made by the Kirby Lumber Company from mills on the Santa Fe Line in Texas, and percentage showing proportion destined Santa Fe system points and points beyond." That is the statement?

Mr. Cowan: Yes. That is the output by the different mills you own?

Mr. Kirby: Yes, sir, from January 1st 1910, to November 30th, 1910, inclusive.

Mr. Cowan: Now read the substance of that statement; the summary will do, I guess.

Mr. Kirby: The total shipments were 11,133 cars.

Mr. Cowan: How many on the Santa Fe—I mean to Santa Fe points?

Mr. Kirby: 3,821 went to Santa Fe points, and 7,312 cars to points beyond.

Mr. Cowan: And what percentages?

6558 Mr. Kirby: The percentage to Santa eF points was 34, and the percentage beyond was 66. Of that 34 per cent, that is the lumber that stopped on Santa Fe rails, probably 50 per cent or more than that went to competitive points on the Santa Fe.

Mr. Cowan: Would not practically all large consuming points like Chicago, Kansas City, St. Jo——

Mr. Kirby: They are all competitors.

Mr. Cowan: Do they not consume by far the largest amount of the lumber?

Mr. Kirby: Yes. It is a very liberal estimate to say 50 per cent of this stopped at local points; probably not 20 per cent did.

Mr. Garwood: You have no separate estimates as to what goes to local points?

Mr. Kirby: No; we did not have an opportunity to make that up.

Mr. Garwood: Could that be done without great trouble?

Commissioner Harlan: Local Santa Fe points you mean?

Mr. Garwood: Yes.

Mr. Kirby: The Santa Fe might have it.

Mr. Cowan: We will file the statement he has just referred
6559 to.

Commissioner Harlan: Do I understand you cannot get that information?

Mr. Kirby: We could pick it out in time, but we have not had time to do it.

Commissioner Harlan: Would it be too much trouble to do that for us?

Mr. Kirby: We will try to get it if the Commission asks for it.

Mr. Cowan: Mr. Hancock's statement is that we would have to pick out the expense bills on the 11,000 cars.

Mr. Hancock: We would have to pick out those expense bills and some of those are gone. We can do it, but we cannot do it in a day.

Commissioner Harlan: Perhaps you could indicate a month or two which would be typical for lumber shipments, and that might meet your desire.

Mr. Garwood: Can we have—what would be a typical heavy and light month?

Mr. Kirby: The average is the same; they do not vary ten per cent.

Mr. Garwood: Take any two typical months.

6560 Mr. Kirby: You name the months.

Commissioner Harlan: You suggest some particular months.

Mr. Garwood: Take the first three months of last year.

Mr. Hancock: Can you make it two? It would be a whole lot less work.

Commissioner Harlan: Take January and March of 1910.

(The paper referred to was received in evidence, and thereupon marked Intervenor's Exhibit No. 3, Witness Kirby, January 30th, 1911, and the same is attached hereto.)

Mr. Cowan: You have a statement to show the total of all shipments covering the period from 1904 to November, 1910, and the amount of freight charges?

Mr. Kirby: Yes, sir.

Mr. Cowan: We will offer that as an exhibit.

(The paper so offered and identified was received in evidence, and thereupon marked Intervenor's Exhibit No. 5, Witness Kirby, January 30th, 1911, and the same is attached hereto).

Mr. Cowan: You may read that pretty largely into the record.

Mr. Kirby: Total number of cars shipped from 1904 to November 30th, 1910, inclusive, was 118,978 cars. Freight charges
6561 paid $8,896,306.79. Average per car $89.46. That is what we paid on commercial lumber only shipped by us for that

period. There was a lot of other lumber sold f. o. b. in the mills to the railroads and others, and the freight rate is not figured on.

Mr. Hancock: 19,534 cars in that total sold f. o. b. the mills, that is not figured on the average freight charge?

Mr. Kirby: Yes.

Mr. Hancock: The total number of cars upon which the freight charges were paid was 99,444.

Mr. Cowan: The freight rates have been the same from each blanket point during this period, have they not?

Mr. Kirby: Yes, sir.

Mr. Cowan: There have been no changes?

Mr. Kirby: Well, yes, there have been some little changes, but the blanket system has been maintained substantially.

Mr. Coleman: I would like to inquire the purpose of this. What light it sheds on the question, the amount of money paid by the lumber company in the past seven years. I confess I cannot see how that helps us here.

Commissioner Harlan: I do not understand that counsel objects to that testimony. If he does, I must overrule it. I think it
6562 bears a general relation to the question. It shows the extent of the business of this company, and affords a basis for some examination of the effect of the non-allowance of divisions to this Commission. That is one suggestion that may arise on this exhibit.

Mr. Coleman: There is no objection, if that is the understanding, but wherever a rate is involved I think we should know whenever changes in the rates have taken place, and that revenue should not be testified on any general rate where it has been changed.

6563 Mr. Cowan: Now you speak of the blanket system being necessary. Suppose the blanket system should be destroyed, and a mileage basis of rates established, what would be the result in the marketing of lumber in the various states and various points; what would be the change in the commercial side of the proposition?

Mr. Kirby: Of course the fellow nearest the market would have an advantage and a very substantial one; it would depend upon the amount of the rate, of course. He would have the advantage to the extent of his shorter mileage. I expect my mills would be ideally located; that is my judgment of the situation. The State of Texas alone consumes about as much lumber as she makes. Of course we would have the short mileage, and we would have an advantage in most sections of the State over Arkansas or Louisiana, our competitors.

Mr. Cowan: When you say "she consumes as much as she makes," you mean she consumes an amount in the aggregate equal to the output of Texas mills?

Mr. Kirby: Yes, she consumes the largest amount from Louisiana and Arkansas, but the quantity is about the same.

Mr. Cowan: Do you have in mind the amount of interstate lumber shipped into Texas, as shown from the Texas Commis-
6564 sion's annual report?

Mr. Kirby: No.

Mr. Cowan: At this point we will ask if counsel will not all con-

cede that we may use the statistical tables in the annual report of the Commission of Texas and their figures as to the amount of state and interstate traffic.

Mr. Garwood: I think that is understood, that it is to be used.

Commissioner Harlan: There being no objection, that will be understood.

Mr. Cowan: Do you remember to have observed the percentage of the lumber into Texas interstate as compared with intrastate?

Mr. Kirby: No, I do not recall.

Mr. Cowan: As a business man and acquainted with the industry, what is your opinion with respect to whether the Texas mills supply a majority of the lumber sold in Texas or whether they do not.

Mr. Kirby: They do not. Our concern is the largest in the state, and we do not make, of course, half as much as the state consumes, yet we do not sell over twenty-five per cent of our product in Texas.

6565 Mr. Cowan: What I meant was, if in your opinion the total consumption of Texas is supplied mostly from the state or outside points.

Mr. Kirby: From Louisiana.

Mr. Cowan: And your answer is Louisiana.

Mr. Kirby: Yes, sir. Of course Arkansas ships quite a lot in there.

Mr. Cowan: Are rates of freight from Louisiana through to Texas consuming points the same as from the Texas producing points to consuming points in Texas?

Mr. Kirby: Well, they are substantially the same. Of course we have sort of a mileage basis in Texas; not exactly a mileage basis, but the rates nearer the forest are a little lower. For instance, Houston has one rate and Galveston has one rate. That is water competition in there. San Antonio has another rate. San Antonio, Dallas and Fort Worth are common point territory and are all in the blanket system. But the mills situated near Houston have a little advantage in getting in there.

Mr. Cowan: And by the term common point territory, do you mean common point territory as to lumber and not the general transportation conditions?

6566 Mr. Kirby: No, we have general common point tariffs on lumber.

Mr. Cowan: So you mean you can ship from any point in Louisiana to Fort Worth on the general rate of 18¾ cents, and that is what you would pay from your mill to Fort Worth?

Mr. Kirby: Yes, sir; the rates are all the same to consuming points in Louisiana.

Mr. Cowan: If your Honor please, we have a few more questions. I had a long list to run over, but I want to have the opportunity of going over it during the recess. I think it will economize the time if we could adjourn at this point.

Whereupon, at 12.25 P. M., a recess was taken until 2.00 P. M.

6567 After Recess.

2:00 P. M.

Mr. Garwood: I have a telegram from Mr. S. P. Kennedy, Secretary of the Alabama Commission, to this effect:

"MONTGOMERY, ALA., *Jan.* 30, '11.

Mr. H. M. Garwood, Auditorium Annex:

What is known as tap lines in this state are largely and very nearly without exception common carriers in the strictest sense of the word in that in addition to their development of the lumber interests of this state they are aiding in the agricultural development and they are under the jurisdiction of this commission as intrastate carriers; this being true this commission thinks that it is nothing but equity that they should participate in through rates as common carriers; that is to say, all lines that are fulfilling the duties of common carriers kindly make known to the interstate commerce Commission the attitude of this commission.

S. P. KENNEDY, *Secretary.*"

And in accordance with his request I present the telegram
6568 and ask that it be made a part of the record. Now as to whether they desire leave to formally intervene in this case, this telegram does not state. I assume that you will be further advised.

Commissioner Harlan: The telegram will be received.

Mr. Cowan: Not to make an objection, but I would like to know if it be received that it be received on this condition that the member of the Alabama Commission sending that telegram come forward, as did the gentlemen from Louisiana and Arkansas to tell us the reason. We would like to have that, if such telegram is to be received as a matter of opinion, for the purpose of cross examination.

Commissioner Harlan: It has been the purpose of the examination to confine it as largely as it may to the conditions of the tap lines west of the river. Our understanding is that very few relatively of the tap lines east of the river are receiving allowances, and we will assume that whatever disposition will be made in this case will be controlling east of the river, without the necessity of another record, if the deposition is of a general nature. And if it is of a special nature, then we will take up the conditions east of
6569 the river. For what it is worth, and what bearing it may have, the telegram may be filed.

(The telegram above referred to was marked "Filed.")

J. H. KIRBY was recalled as a witness, and having been previously sworn, testified as follows:

Mr. Cowan: What is the size of the town of Kirbyville?

Mr. Kirby: I think about 3,000 people.

Mr. Cowan: What industries are there there, apart from the saw mill industry, from which people can obtain a means of living?

Mr. Kirby: The main industry at Kirbyville and in fact the only

industry there, is the saw mill and the things incident or contingent on or supported by the saw mill. There is a bottling works and perhaps some few smaller things like that, a lot of stores and a couple of banks and a pretty good school.

Mr. Cowan: How can the people gather sustenance for the purpose of supporting these institutions you have just mentioned, except through the operation of the saw mill industry at that point?

Mr. Kirby: A very large percentage of the population of all the saw milling territory is supported directly or indirectly by
6570 the saw milling industry. The agricultural interests of that section are small relatively, and it is so in all saw milling territory; the agricultural interest is relatively small.

Mr. Cowan: To what extent is that dependent upon the sales, directly or indirectly to those who are operating the saw mill industry?

Mr. Kirby: It is very largely dependent. It is their local market for everything except cotton. Of course where they produce cotton they send it elsewhere. That is not marketed locally. But their sugar cane and corn and cabbages and peanuts and tomatoes and watermelons and all that sort of thing are marketed locally to the mill people, or those living directly or indirectly out of the milling industry.

Mr. Cowan: Taking Kirbyville as an illustration, supposing the Kirby mill were destroyed, and the railroad could not operate, assuming that the timber should take fire and burn and destroy the timber in the country tomorrow, what would necessarily become of the town of Kirbyville?

Mr. Kirby: Well, it would have to hunt a new location, if the men were employed, because there is no employment for them, or nothing to sustain them.

6571 Mr. Cowan: How many people are employed at your mills of a certain standard; say, a double mill or single mill?

Mr. Kirby: In a single mill it requires in the operating department, that is, the logging and manufacturing, about 225 people, and a double mill, depending upon its capacity. Our best mill would require about 600 men, and our Call mill about 500 men.

Mr. Cowan: What do you figure the population?

Mr. Kirby: It is usually about four to one, I think.

Mr. Cowan: That is, the direct employees?

Mr. Kirby: Direct employees, are, as I have named, about 225 for a single mill and about 500 for a double mill.

Mr. Cowan: And about four to one; that is, for the families, however, of the particular ones employed?

Mr. Kirby: Yes.

Mr. Cowan: Then come the doctors, school teachers and dentists?

Mr. Kirby: Well, there are not many of those. There are a few, but there are a lot of industries conducted at all these points, markets where fresh meats and other things of that kind are sold, and ice cream parlors and things for the entertainment of the
6572 people and their doctors and dentists and preachers, school teachers and all kinds of people necessary to make up a community.

Mr. Cowan: The reason I am asking these questions it has been testified several times in this case that by the construction and operation of these tap lines as common carriers they develop certain things in the community, and they have maintained all those things. My general question is whether or not the development is precisely the same, whether it is a common carrier or not, and results primarily from the saw mill industry.

Mr. Kirby: That is my judgment. It makes no difference whether it is a carrier or is not.

Mr. Cowan: How many men do you work altogether?

Mr. Kirby: In all the departments, including our hewn tie and piling department, and including the employees of sub-contractors, between 6,000 and 6,500 men.

Mr. Cowan: And that is the operation of the thirteen mills, is it?

Mr. Kirby: Yes, sir. Well, there are two mills not in operation now, but that is it substantially.

Mr. Cowan: And 200 miles of railroad is main line or main line and spurs?

6573 Mr. Kirby: It includes both, and then there are a lot of rails that may be laid today and up tomorrow.

Mr. Cowan: Does this 200 miles——

Mr. Kirby: There is 206 miles in operation all the time.

Mr. Cowan: Independent of the rails which you may have put down in other places?

Mr. Kirby: Yes, sir, independent of the rails we might have unlaid, or which may be laid today and up tomorrow.

Mr. Cowan: Do you have your locomotives equipped with air brakes?

Mr. Kirby: Some of them; most of them.

Mr. Cowan: What is your situation with respect to liabilities for injuries and the like to people?

Mr. Kirby: Our liability, I am advised, is substantially the same as a carrier, as a trunk line or any other line.

Mr. Cowan: In practical effect?

Mr. Kirby: In practical effect. We used to think down there that there was no liability for injuries resulting in death, but our Supreme Court whacked us one on that, and we recently had to pay a death claim of some $20,000.

Mr. Cowan: In regard to stock killed on the track, and the like, you spoke a while ago——

6574 Mr. Kirby: The same liability as a carrier, except this that where a railroad proper does not fence its right of way they cannot be heard to make any defense against any stock killing they may make, because that is prima facie negligence.

Commissioner Harlan: We mean under the laws of that state?

Mr. Kirby: Under the laws of Texas.

Mr. Cowan: There are a good many questions along that line that I might ask, but I will forego them, and you may take the witness.

Cross-examination:

Mr. Garwood: From your statement this morning I do not understand that you contend that you have been shut out of any market or that those whom you call your competitors have under sold you in any particular market by reason of any supposed divisions that the owning interests of the railroad serving those competitors may have received. You do not make that contention in this case?

Mr. Kirby: Well, I do not know about being shut out of any market. We get into market. We do not get in on the same basis that they do, where they have a lower rate.

Mr. Garwood: You do not contend in this case that you have been shut out of any consuming territory which may be
6575 served and is served by your competitors by reason of those divisions?

Mr. Kirby: I am shut out in so far as the same rate is concerned. I am not shut out entirely, because I might be willing to go there at a loss to market my stuff.

Mr. Garwood: You either do not apprehend the question or the answer does not reach the question. You do not contend that there is any lumber market from which you are shut out by reason of the fact that any competitor of yours is owned by the same interest that owns a short line.

Mr. Kirby: There are some localities where that might be true.

Mr. Garwood: Well, do you contend then that that is true?

Mr. Kirby: Well, I might give you a concrete example. At Galveston, for example, we cannot sell any lumber in Galveston because the Long-Bell Company gets divisions, and they can go to Galveston at a two cent rate against our eight cent rate. That is sufficient to keep us out of Galveston. But we might overcome the two cents or four cent division, but a six cent division could not be successfully overcome, consistent with any profit at all in the business.

Mr. Garwood: I understand you contend then, that Gal-
6576 veston is one market. Is that a large consuming market of lumber?

Mr. Kirby: Not very large. There was a large piece of work going on there recently, where we came in contact with that situation. I do not know now who sold the lumber. I did at the time. That was in the causeway construction.

Mr. Garwood: That is an intrastate market, and is not considered by lumbermen a large consuming market at any time?

Mr. Kirby: Well, it is not a very large city; it is not a large market relatively.

Mr. Garwood: It is not a distributing point in any sense, is it?

Mr. Kirby: No, not of lumber. All the lumber that goes to Galveston is for local use; that is the market I speak of. I speak of it in that sense.

Mr. Garwood: Is there any territory now that you can name from which you, as a producer of lumber, have been kept out by reason

of any division of a rate given to a short line road, the substantial interest in which is owned by a lumber company?

Mr. Kirby: There is not any market where we have
6577 actually been kept out, but I have not gone to market on the same rates, if that is what you mean, because——

Mr. Garwood: That is a matter of argument which I wish to avoid, as far as possible. The Commission, I think, has indicated a preference to hear the argument at the end of the investigation.

Mr. Kirby: I do not intend to make an argument, but I want to answer your questions intelligently.

Mr. Garwood: No, I do not mean that. I mean I did not want to argue the question with you myself. If you can, just state that as a——

Mr. Kirby: I do not know of any market where we have been absolutely shut out. We have rates to all markets, and go to all of them, but we do not go to them on the same basis as our competitors who get tap line divisions.

Mr. Garwood: So you reach all of the great lumber consuming markets?

Mr. Kirby: Yes, and less lumber consuming markets. We have rates to substantially all markets.

Mr. Garwood: You reach all markets?

Mr. Kirby: Yes.

Mr. Garwood: And they are all open to you?

6578 Mr. Kirby: Yes, sir.

Commissioner Harlan: Let me put just one question. Do you know of any market in this country that is supplied by competitors that get allowances and where you——

Mr. Kirby: Exclusively?

Commissioner Harlan: Exclusively. Of course you have rates there, that is, rates are published which you could use, but as a matter of fact, is there any market in this country supplied by your competitors to your exclusion?

Mr. Kirby: Well, there may be some, but I do not recall them just for the moment. There are localities where we do not sell any goods, but whether that is because of the rate——

Commissioner Harlan: Where goods are sold by others?

Mr. Kirby: Yes, sir.

Commissioner Harlan: That is the point I want to get at.

Mr. Kirby: I had not looked up that piece of information so as to make myself intelligent on that subject, but of course we do not sell everywhere, but we have rates to all points. Just to what extent rates to these particular points keep us from selling in that particular territory I am not prepared now to say.

6579 Mr. Garwood: At any rate the territory of which the Commissioner inquired has not been of sufficient importance to impress itself on your mind?

Mr. Kirby: It might have been very important, but I do not handle the sales department personally.

Mr. Garwood: I do not understand, either, that you contend that you have been undersold in the market by any of the mills, sub-

stantial interests, which also own short line railroads in various parts of the country. You do not make that contention, either, do you?

Mr. Kirby: I am undersold every day; otherwise I would have all the business to the extent of my ability to supply it.

Mr. Garwood: That is a matter of general competition?

Mr. Kirby: Yes.

Mr. Garwood: You all compete with each other vigorously, I understand, everywhere?

Mr. Kirby: Yes, sir.

Mr. Garwood: All the lumber men do that in all territory, wherever they can get a chance at each other, I understand that.

Mr. Kirby. Yes.

6580 Mr. Garwood: But the question is, are you substantially undersold, or do you contend that you are substantially undersold in any market by any of the interests that also own interests in short lines?

Mr. Kirby: All the time; every day.

Mr. Garwood: Can you name the places and times?

Mr. Kirby: I can gather you many instances. I have not got them at my finger tips just now. You go into any market in Texas; you go in any market in any part of the country where a tap liner enjoying a fat division is your competitor, he undersells you. He is able to do so, and if he is getting $1.50 and I am getting nothing, he can sell his lumber for ten cents lower than I can, and that takes the business. He has therefore made $1.40 more than I would have made had I sold the same bill, by reason of his tap line refund.

Mr. Garwood: You are also undersold occasionally and in the ordinary stress of business competition by mills who are not, as you term them, tap liners?

Mr. Kirby: That is true.

Mr. Garwood: That is a fact?

Mr. Kirby: That is true.

Mr. Garwood: Now, can you indicate to the Commission

6581 any substantial and continuous underselling as against your interests in any market by those lumber interests that also own an interest in these so-called short line roads?

Mr. Kirby: I think it is done every day. I doubt if there is a transaction in the whole country that does not involve that principle, and so to mention any one sale——

Mr. Garwood: That is a matter of opinion——

Mr. Kirby: It is not a matter of opinion. And——

Mr. Garwood: And I think we are endeavoring to get this to a question of fact as much as possible. Can you indicate, Mr. Kirby, any places or any mills where as a continued line of business, not a mere sporadic or occasional undersale, but where there is a substantial and continual underselling as against you or any interest that is also interested in short line railroads?

Mr. Kirby: I can give you any number of instances from our salesmen and from our sales managers——

Mr. Garwood: Can you mention any of them?

Mr. Kirby: But I never sold a car of lumber in my life, and so I cannot——

Mr. Garwood: Well, you of course are familiar in a general way with your business transactions?

6582 Mr. Kirby: Yes.

Mr. Garwood: Now, can you indicate any territory or any place where there is a continuous underselling as against your interest upon the part of any interest that is connected by ownership or otherwise with these short line railroads? I mean, so substantial and continuous as would indicate to your mind a continued line of policy? In other words, Mr. Kirby, I wish to separate that from such sporadic cases of competition where all of you go in and bid and one under-bids the other.

Mr. Kirby: The practice is so universal that you cannot mention an exception. I cannot mention an exception to the rule you have laid down. It applies in every sale, every sale.

Mr. Garwood: You are not, then, able to indicate to the Commission any particular place, time or territory?

Mr. Kirby: I cannot indicate from any information I have in hand here where our lumber went last month or the month before, or any other time, but every car of lumber in this list that I read over this morning, is sold on that basis in competition with the follow who gets to market at a lower price.

6583 Mr. Garwood: We understand the general proposition, of course. You all compete wherever you can. Now, you are not able to give any particular instances of that character. I will now ask you, since you say you are undersold, of course everybody else is occasionally undersold too, is he not?

Mr. Kirby: I presume he is, because these tap liners are competing with each other, as well as the rest of us.

Mr. Garwood: You are all competing; I understand that. I am now asking you if you can state to the Commission what you have received, say, during the past twelve months, as an average per thousand feet board measure for your product?

Mr. Andrews: Now, if the Commission please, we object to the question of what he received for the market price of his lumber, on the same grounds that we objected this morning upon the query of what it cost him in the mill to make it; that what he sells it for might prove nothing unless every other mill had its sales prices to lay down here before us.

Commissioner Harlan: I must confess I do not see the relevancy of this line of inquiry. Let me make this suggestion. Do you propose to argue as a matter of law, that if Mr. Kirby or similar interests are able, through better advantages or closer attention

6584 to business to absorb this difference in rates, that then there is no discrimination resulting from the divisions that are allowed to some and denied to him?

Mr. Garwood: I will state this, your Honor, and we wish it to go into the record, and go in as accurately as possible. I did not understand from the contention of Mr. Kirby this morning, that he made any contention that he was shut out of any market by reason

of these supposed allowances. I did not understand from his position this morning that he made any contention that he was forced to sell his product in order to sustain himself, at a lower price than he otherwise would have done, in order to meet this competition. The answers which he has now given, your Honor knows. Now he has gone this morning under the interrogation of his own counsel, largely into the question of his cost of operations.

Commissioner Harlan: Cost of operations of the railroad only?

Mr. Garwood: Yes, and of the whole plant, including his logging spurs, all of them, and he has been asked the general questions as to comparisons of these with other territories. He now advances the claim that he has been discriminated against. Now, as a
6585 matter of primary inquiry, I should have been disposed to agree largely with the position taken by Mr. Marble this morning, that the inquiry should have been limited at its inception to the proposition as to each particular carrier. But we have gone beyond that, and this branch of the inquiry is as to whether there is actually a discrimination against one situated as Mr. Kirby: Now, if we can show from Mr. Kirby himself, as I think we have shown so far as he has gone, at the outset, that there is no market in the United States from which he is eliminated; if we can show by him that he has ever been compelled to sell below these competitors in order to maintain the business, these very [illegible] which are connected with short line roads, I submit that there can be no question, if that may be a fact, that this is a matter of inquiry; I do not state that it will be shown or that it will not be shown; but we are inquiring as to whether it can be shown. If it should be shown that he is eliminated from no market, that he is not compelled to sell at any lesser price in order to maintain his markets, than his competitors, does not that bear directly and forcibly and with the most powerful probative force upon the proposition that as a competitive proposition and as a proposition of discrimination that he has no
6586 standing in the Commission. In other words, was there ever a case of discrimination that does not involve the question whether the man who claims to be discriminated against cannot get to the market as favorably as the man who it is alleged has the unfavorable discrimination, as against him? And I submit——

Commissioner Harlan: I understand your point fully, and I must sustain the objection to the inquiry. It seems to me you are dealing with the whole range of the business of the Kirby Company in ascertaining from the standpoint of the operation of their mills, their investment and everything else, they are able to get into the market and successfully compete with others. The inquiry before the Commission is whether there is a discrimination in the rates that these people have to pay.

Mr. Garwood: Yes, sir, and it has been permitted here to show in a general way that there is a discrimination. Doubtless Mr. Kirby thinks so, but that is a conclusion both of law and fact. Now, I urge this, because, speaking with all sincerity and candor——

Commissioner Harlan: Counsel always does, I know.

Mr. Garwood: I try to always. I cannot see how it is possible in

any tribunal to determine whether a man has been discrimi-
6587 nated against without we get the facts upon which discrimination can or cannot be proved. Now, it occurs to me that there ought not to be any disagreement between the court and myself upon that proposition.

Commissioner Harlan: I think there ought not, Judge Garwood, either——

Mr. Garwood: And so much so that in answer to the suggestion made by Mr. Cowan that it would involve the comparison of his prices with the prices of those who have interests by stock ownership or otherwise in the affairs of the lines that have been under investigation; now I wish to say to counsel that we are prepared to meet that very issue and prepared with the facts, and so much do we feel that we are entitled to this information—and I must confess that it never occurred to me that it, being such a necessary consequence in this inquiry—it never occurred to me for a moment that there would be objection upon the part of counsel that this should be inquired into——

Mr. Cowan: I would like to ask Mr. Garwood a question, if he will permit me at this point.

Mr. Garwood: I have no objection to your asking it, but whether I will answer, is another proposition.

6588 Mr. Cowan: If he does not know from the very start at New Orleans that we would object to going into the private business of any particular company, and that that same objection was being offered by others, and we consented there, as shown by the record, that we had no right to go into the private business of any concern in the matter.

Commissioner Harlan: I must insist upon the ruling. The objection is sustained.

Mr. Garwood: We wish to have it in the record so that we may avail ourselves of it and get our several questions in the record.

Commissioner Harlan: Very well.

Mr. Garwood: And that upon objection of counsel, or whether of counsel or upon objection by your Honor, the question was not permitted.

Commissioner Harlan: To that particular question I have already ruled that the objection to it is sustained. If you have some other questions, you may propound them.

Mr. Garwood: And the question which is not permitted to be answered is as to his average selling price for the year ending June 30, 1910 of all his lumber products sold.

Mr. Marble: At what point? At the mill?

6589 Mr. Garwood: At the mill.

Commissioner Harlan: I understand the objection is made and it is sustained. Have you some further questions, Judge Garwood?

Mr. Garwood: I will put it the calendar year instead of the fiscal year ending June 30, 1910.

Commissioner Harlan: Very well, the question will be so understood.

Mr. Garwood: We now repeat that question as to the several grades of lumber, B and better, No. 1, common, No. 2 common, and it goes down to 4, does it not?

Mr. Kirby: Yes.

Mr. Garwood: No. 3 and No. 4. We ask that those questions be incorporated in the record, and upon objection, the witness is not permitted to answer.

Commissioner Harlan: Your objection extends to those questions?

Mr. Cowan: Yes.

Commissioner Harlan: The objection is sustained.

Mr. Garwood: I wish to state in that connection, your Honor, that we will be prepared to prove upon the part of those interests which, as shown by this record, by stock ownership or other-
6590 wise, also own interests in the so-called short line roads, their average selling price for the same period——

Mr. Cowan: We do not object to that. We admit that now, as far as that is concerned.

Mr. Garwood: Certainly they will not object, but it only becomes material in the event the Commission permits the inquiry here. In connection with this testimony we are prepared to prove for the several interests involved, their average selling prices for the same material covering the same period of time, and will be prepared to prove that they have not undersold Mr. Kirby or the Kirby Lumber Company in the market.

Commissioner Harlan: Very well, is that all?

Mr. Cowan: We will not object to it when he offers it, and I would like to know why they have not offered it heretofore. They have been all here.

Mr. Garwood: The Commission understands why I couple the two things together.

Commissioner Harlan: Yes. Counsel stands ready to offer that testimony, I suppose not in behalf of all the tap lines.

Mr. Garwood: No, the substantial interests.

6591 Commissioner Harlan: Very well; the record will show it.

Mr. Cowan: I do not think the record should show that he offers it, because if he offers it and it is material——

Commissioner Harlan: We will not stop on it. Counsel has made the offer in good faith, and we will understand that he stands ready on behalf of a substantial number of tap lines represented in this inquiry to offer such testimony if the inquiry which he has been making of this witness had been allowed to proceed.

Mr. Garwood: Yes.

Mr. Coleman: Do I understand that relates to cost at the mill, or the selling price?

Mr. Garwood: We have not got to the cost. That is selling price.

Commissioner Harlan: The selling price in the general market.

Mr. Garwood: I intended to include in that statement, I am not sure whether I did or not, that the prices of the Kirby Lumber Company, the average sale prices, were less than the interests to which I have referred.

Commissioner Harlan: You mean your offer embraces testimony tending to so prove?

6592 Mr. Garwood: Yes.

Mr. Marble: Are those prices at the mill again?

Mr. Garwood: Yes, sir, at the mill.

Mr. Cowan: I think if your Honor please, Mr. Garwood is slipping up on the Commission here. I want to call attention to it. Mr. Kirby has testified he has been undersold. These gentlemen say they propose and would be prepared to prove that that is not so, if you permit him to prove by Mr. Kirby what his average prices are. I say Mr. Kirby has already testified that he is undersold, and in answer to Mr. Garwood. If he wants to prove that is not true, then put witnesses on to do it, and I undertake to submit that I would do it if the record is permitted. That is a different thing to stating the average price, the fact of being undersold has no relation to what the price was. It may have been 15, 20, 30 or 40 cents——

Commissioner Harlan: I do not understand that Judge Garwood offers to prove that Mr. Kirby was not undersold, but that the facts in his possession of the price in the market of other lumber, and also the information in his possession as to the Kirby prices, leaving the Commission to ascertain whether there was any underselling on that testimony or not.

6593 Mr. Cowan: I am taking what he said and putting in the record the proposition that he proposes to prove that, and I do not think it should go in the record.

Mr. Coleman: Do I understand that Judge Garwood offers to prove that Mr. Kirby's selling price at the mill is necessarily lower than the price of his competitors?

Mr. Garwood: Not necessarily lower, no.

Mr. Coleman: Or was lower?

Mr. Garwood: That it was lower.

Mr. Coleman: And that relates to the price he makes, and not the price he sells it for?

Commissioner Harlan: Your language is wrong. Mr. Garwood has not offered to prove anything, but simply to offer testimony tending to sustain the facts he has indicated might be sustained by such testimony.

Mr. Cowan: And that on the sole condition if Mr. Kirby had been permitted to testify as to the average price of lumber. We are getting into an interminable mix-up in the record.

Commissioner Harlan: That clearly appears. Will you proceed, Judge Garwood?

Mr. Garwood: I will now ask the witness what is his average cost of production for the calendar year ending December 31st

6594 on all classes of lumber mentioned in the prior interrogatory.

Mr. Andrews: And we object.

Commissioner Harlan: The objection is sustained.

Mr. Garwood: I would like to ask in that connection this question of the witness: Has he any personal objection to answering those questions?

Commissioner Harlan: Well, I do not think that is proper, to

produce a situation between the witness and his counsel. The question is overruled.

Mr. Garwood: We now ask the same question as applied to each grade of lumber as mentioned in the prior interrogatory.

Mr. Andrews: Same objection.

Commissioner Harlan: Objection sustained.

Mr. Garwood: We except to the rulings, so that we may lay a predicate, if it should be thought material and advisable, in view of further testimony adduced, to ask the ruling of the Commission that it be furnished.

Commissioner Harlan: Very well, the record will show the exception to the ruling.

Mr. Garwood: You stated in your examination this morning Mr. Kirby, that you built the Beaumont, Kansas City & Great
6595 Northern?

Mr. Kirby: Well, you have got the name wrong.

Mr. Garwood: The Gulf, Beaumont & Kansas City?

Mr. Kirby: Yes, sir.

Mr. Garwood: There is another railroad up there that I always confuse with it.

Mr. Kirby: Yes, sir; I built it.

Mr. Garwood: You sold that to the Gulf, Colorado & Santa Fe?

Mr. Kirby: Well, or the Atchison.

Mr. Garwood: The substantial interests; that or the Atchison?

Mr. Kirby: Yes.

Mr. Garwood: About what time was that sale made?

Mr. Kirby: June, 1900.

Mr. Garwood: Did you construct another railroad in that locality, the Gulf, Beaumont & Great Northern, or the Beaumont & Great Northern?

Mr. Kirby: That was an extension of the Gulf, Beaumont & Kansas City from Rogan north to San Augustine.

Mr. Garwood: What time did you construct that, and did you sell that to the Santa Fe, and if so, when?

6596 Mr. Kirby: I began that construction in 1899, but I had not completed it at the time I sold it to the Santa Fe, and then I became after selling that, the contractor and built the line into San Augustine.

Mr. Garwood: Was that sold at substantially the same time that you did the first road constructed?

Mr. Kirby: All sold together; yes, sir.

Mr. Garwood: When did you begin the construction of each of those lines?

Mr. Kirby: I began in 1893 the construction of the G. B. & K. C. at Beaumont, and the other line I began probably in 1898 or 1899, I don't remember just when; 1897 perhaps.

Mr. Garwood: Now, at the time you began this construction had you begun to acquire by purchase, option or otherwise lumber holdings in the territory through which these roads ran?

Mr. Kirby: Nothing of consequence, no, in that intermediate territory.

Mr. Garwood: Well, north of that?

Mr. Kirby: Yes, at the time I started the road, concerns that I represented had some timber interests up in the northern part of Jasper County, which is 115 or 120 miles from Beau-
6597 mont.

Mr. Garwood: Those were lumber companies, were they?

Mr. Kirby: No.

Mr. Garwood: What kind of company?

Mr. Kirby: They were Boston gentlemen, investors.

Mr. Garwood: Were you interested in any lumber company at that time?

Mr. Kirby: No, sir.

Mr. Garwood: About how much, in a general way——

Mr. Kirby: Yes, I had some interest in the Warren Lumber Company, over on the Southern Pacific.

Mr. Garwood: Were these Boston companies that you represented lumber companies or timber companies or——

Mr. Kirby: They were timber companies; they were not operators.

Mr. Garwood: They were not operators?

Mr. Kirby: No.

Mr. Garwood: How much did you acquire for them?

Mr. Kirby: Well, I do not know—what ones are you talking about; prior to the start of the railroad?

Mr. Garwood: Yes.

Mr. Kirby: I represented two companies in Texas, one
6598 the Texas & Louisiana Land & Lumber Company and one the Texas Pine Land Association. The two of them had scattered over the thirteen counties of east Texas probably 200,000 acres of land, 150,000 anyway.

Mr. Garwood: How much of that was in the section of the country through which you built these roads?

Mr. Kirby: Very little; that is, very little on the first 75 miles. After passing the town of Jasper up there on that new line, which was sold to the Santa Fe?

Mr. Garwood: Yes.

Mr. Kirby: And under construction at the time we sold to the Santa Fe, we run through quite a lot of timber land, probably 100,000 acres in that neighborhood. Of course we did not go through it all.

Mr. Garwood: Now, take the whole line, the two lines, about how much timber lands and timber rights did these parties own?

Mr. Kirby: Well, those two companies—are you talking about the people who built the railroad?

Mr. Garwood: No, I am talking about these companies for whom you said you were acting.

Mr. Kirby: They had somewhere between 150,000 and
6599 200,000 acres at that time. They sold out some ten years later, and had about that amount at that time.

Mr. Garwood: Did you own then, or did you subsequently acquire any interests in these companies and their holdings?

Mr. Kirby: I had a little interest then. I was on a commission

basis, and they paid for my services in stock. I did not have any money invested in either one of them.

Mr. Garwood: Did you have a substantial interest?

Mr. Kirby: No, not very substantial in either one of those two companies.

Mr. Garwood: Now, I understand the date of this sale to the Santa Fe was about 1900?

Mr. Kirby: June, 1900.

Commissioner Harlan: That is the sale of what branch?

Mr. Kirby: The G. B. & K. C. and the G. B. & G. N.

Commissioner Harlan: Both of them?

Mr. Kirby: Yes, sir.

Mr. Garwood: At that time had the Santa Fe constructed its branch from Somerville eastward?

Mr. Kirby: Yes, but not all the way.

Mr. Garwood: It was under construction?

Mr. Kirby: No, they had not built any in years?

6600 Mr. Garwood: How far did it come eastward from the connection with its main line at Cleveland?

Mr. Kirby: Cleveland?

Mr. Garwood: Yes, from Sommerville.

Mr. Kirby: I do not know what the distance is.

Mr. Garwood: They came to Cleveland?

Mr. Kirby: The line was completed a few miles east of Cleveland. They had a line probably for twenty years from Sommerville to Conroe, and then a man named Putnam built a little line running east, crossing the Houston, East & West Texas at Cleveland, and for a few miles east of Cleveland.

Mr. Garwood: They acquired that?

Mr. Kirby: They bought that.

Mr. Garwood: About how much mileage was that?

Mr. Kirby: I think about thirty miles from Conroe, perhaps.

Mr. Garwood: Then after the acquisition of your lines to the connection with that line——

Mr. Kirby: They built over to Silsbee to the connection, I think about seventy miles.

Mr. Garwood: At what time did you begin the acquisition of timber lands on your own account?

Mr. Kirby: After I sold the railroad and got some money.

6601 Mr. Garwood: After you sold the railroad, and then began the acquisition of timber land. About how much did you acquire at that time?

Mr. Kirby: Something over 200,000 acres. You mean personally?

Mr. Garwood: Yes.

Mr. Kirby: Of course I had interests in a good many concerns, partnerships and corporations and things, but my personal interest would have been about 225,000 or 230,000 acres.

Mr. Garwood: Without going into all these various companies and co-partnerships in which you were interested, about how much

did these companies and yourself personally own or control, either by fee title or timber rights?

Mr. Kirby: At what time?

Mr. Garwood: Well, prior to the organization of the Kirby Lumber Company, say.

6602 Mr. Kirby: Something like 500,000 acres.

Mr. Garwood: Five hundred or six hundred thousand?

Mr. Kirby: No, something like 500,000.

Mr. Garwood: Something about 500,000 acres?

Mr. Kirby: I think so.

Mr. Garwood: When you sold, and the Santa Fe acquired these lines of which I speak, had you in immediate contemplation your subsequent development in the lumber territory?

Mr. Kirby: I had in contemplation the purchase of timber lands over there when I sold the railroad. I did not expect to go to lumbering except I would log, but not manufacture. I did not have that in mind at that time.

Mr. Garwood: How much land did the Kirby Lumber Company acquire in its corporate name?

Mr. Kirby: I think something like 130,000 or 140,000 acres. Do you mean at that time?

Mr. Garwood: Yes. 130,000 or 140,000 acres.

Mr. Kirby: Yes.

Mr. Garwood: Was that in addition to the amount you owned, or had you transferred any of your personal holdings?

Mr. Kirby: No, none of my personal holdings were transferred to the Kirby Lumber Company at the time. That has been

6603 ten years ago since the lumber company was organized. Since that time we have had some transactions. Two years ago I had some personal land——

Mr. Garwood: I understand, you had your personal holdings which amounted to about 200,000 acres.

Mr. Kirby: Well, my proportion of this 500,000 we are talking about would have been about 230,000 acres.

Mr. Garwood: Now the 500,000 acres, did that include 130,000 acres of the Kirby Lumber Company, or was it separate?

Mr. Kirby: That is separate.

Mr. Garwood: So that you have 500,000 acres which you and your associates control, and 130,000 acres additional which the Kirby Lumber Company controls.

Mr. Kirby: We do not control that now, if that is what you are talking about. We sold it all in 1901.

Mr. Garwood: Yes, we will get at that later. Now, when was the Houston Oil Company organized?

Mr. Kirby: In July, 1901 it was started.

Mr. Cowan: If your Honor please, I do not think it appropriate to go into tracing out titles in the various controversies between

6604 the Kirby Lumber Company and the Houston Oil Company.

Commissioner Harlan: We have not got very far yet.

Mr. Cowan: We are just starting, and I know what he is starting into, and it will take the Commission two weeks to go into it.

Commissioner Harlan: We will not take much time on it.

Mr. Cowan: If they go into it at all——

Commissioner Harlan: Let us see what counsel is going to ask, and then we will determine.

Mr. Garwood: When was it organized?

Mr. Kirby: In July, 1901, was its charter.

Mr. Garwood: Did the Kirby Lumber Company sell any land to the Houston Oil Company?

Mr. Kirby: It did not.

Mr. Garwood: Did the Houston Oil Company acquire lands of its own?

Mr. Kirby: Yes, sir.

Mr. Garwood: To what extent did it acquire pine lands in that territory particularly?

Mr. Kirby: They bought something over 800,000 acres.

Mr. Garwood: Now in a general way I understand the Kirby Lumber Company operates the Houston Oil Company's
6605 land.

Mr. Kirby: We cut the timber from that land.

Mr. Garwood: That is what I mean by operating. You cut the timber from those lands?

Mr. Kirby: Yes.

Mr. Garwood: What do the joint holdings of the Houston Oil Company, the Kirby Lumber Company, and yourself amount to?

Mr. Kirby: Well, do you mean the present holdings?

Mr. Garwood: Yes, I will put it now.

Mr. Kirby: Well, I do not know just what area the Houston Oil Company has, but something over eight hundred thousand acres, and the Kirby Lumber Company has probably forty thousand acres, and I personally have probably twenty-five thousand acres, altogether may be nine hundred thousand acres in those interests.

Mr. Garwood: Have you at this time any option or right to purchase what is commonly known as the Kountze lands?

Mr. Kirby: Yes, sir.

Mr. Garwood: How many acres do they comprise?

Mr. Kirby: That is 180,000 acres, in round figures.

6606 Mr. Garwood: About where, in a general way, do they lie?

Mr. Kirby: Well, they lie in Angelina, Jasper, San Augustine, Sabine, Newton, Tyler, Hardin and Polk and Liberty Counties.

Mr. Garwood: From whom did you acquire that option?

Mr. Cowan: We object to that. It is just an attempt to go into the private business of the Kirby Lumber Company, and does not bear on the question of the rates.

Commissioner Harlan: I do not see that that is a relevant question.

Mr. Garwood: I will vary the question——

Mr. Cowan: We object to all such questions without having to get up at all for each question.

Commissioner Harlan: If you will indicate clearly to the Com-

mission just what you expect to prove, it may throw some light on the question.

Mr. Garwood: My next question would have indicated that.

Commissioner Harlan: Very well, then ask the next question first.

Mr. Garwood: That is very difficult to do. Did you acquire that option from what is commonly known as the Santa Fe interests?

Mr. Cowan: Our objection, you understand, goes to this
6607 whole line.

Mr. Garwood: I think that is pertinent, your Honor.

Commissioner Harlan: With what thought in mind? Let us see what the relevancy is. Counsel in making that statement may decide the question, leaving me no opportunity to know what his purpose is.

Mr. Garwood: I did not expect to indicate my entire line of what I expected to show by the witness. Of course an objection can be interposed to each particular question, when all the questions put together and their answers will conclusively show their materiality. If it is a fact, and this witness will know, that these lands are owned substantially by the Santa Fe interests, that those holdings combined with his own occupy an immense territory in that section served by the Santa Fe, we think that it will explain to this Commission the policy of the Gulf, Colorado & Santa Fe road which seeks to prevent the construction of short lines in that territory, and will also serve to explain contracts which will subsequently be called for and notices to produce which have been given, and which are in the record, and which I do not now stop to take time to discuss.

6608 Commissioner Harlan: Let me put the question somewhat bluntly, Judge Garwood. Are you undertaking to show to the Commission that there is something in the relation between the Kirby Lumber Company or Mr. Kirby, or any of these other companies you have mentioned and the Santa Fe that affects the transportation of this lumber favorably or unfavorably?

Mr. Garwood: Yes, sir, I think so, that unquestionably does, your Honor.

Commissioner Harlan: The question may be answered.

Mr. Cowan: We will simply have to advise the witness as to certain points not to answer those things we think ought not to be answered.

Mr. Garwood: Oh, of course.

Mr. Cowan: For that reason we want to make our objections as we go along to the questions we do not think should be answered. We do not want to be foreclosed by the fact of permitting one question to be answered, and not having the objection to the others sustained.

Mr. Coleman: Judge Garwood has practically offered to show some kind of a common plan in regard to the lands in question

Before the examination proceeds in detail, could Mr. Kirby
6609 indicate the percentage of those lands which are at all tributary to the Santa Fe, the percentage which are tributary to the Houston East & West Texas, a line which I believe Judge Gar-

wood indirectly represents with other railroads? In other words, before you go into that discussion, see what railroads the land is tributary to.

Mr. Garwood: That can be developed on cross examination.

Mr. Coleman: I think it should be developed now.

Commissioner Harlan: I think it is open to Mr. Coleman to bring that out later.

Mr. Cowan: I would like to make the suggestion at this point that so far as the contracts between Mr. Kirby and the Santa Fe are concerned, we are perfectly willing for the Commission to have them. We simply think it is not a matter to go into the record. Being willing to submit the contracts, they speak for themselves, and it would seem to me therefore, when we have offered to do that for the private information of the Commission subject to its ruling whether it should be made a public document, that ought to end the matter until the Commission should have decided——

Mr. Garwood: As a matter of course——

Commissioner Harlan: We have not reached the matter of the contracts now. Now what was the question?

6610 Mr. Andrews: You have reached the contracts in this way, that he is interrogating the witness as to the rights or options to acquire, and leaving the witness to make his statements and return to them, and that *we* may necessitate if carried on, the offering on our part of portions of the instruments and explanation, and the witness might answer a question propounded with reference to it that the answer would compel us to offer voluntarily other portions of it, whereas we propose to tender the contracts to the Commission without interrogating the witness as to the contents of the contracts, and then if the Commission decides they are to be made public and are to be given to the public, and his business affairs as contained in those contracts are to be given to the public, we are helpless in the matter. But if the Commission holds that they should not be so published, then we do not think that the witness should be interrogated as to the contents of them.

Commissioner Harlan: We have not reached that point yet, and of course the Commission will endeavor, as far as it lawfully may, and it has throughout this inquiry, to protect the commercial

6611 interests of any person engaged in the inquiry. But so far as the relations between any shipper and a carrier are concerned, we have brought those out, and it is the duty of the Commission to bring them out. Counsel offers, I assume in good faith, to make his questions relevant, and what he proposes to prove. We must get ahead. I think the question should be answered.

Mr. Garwood: It is not my purpose, of course, to inquire into the private business of any man except insofar as that private interest becomes affected with a public interest by reason of its direct relation to a transportation problem which is being probed by the Commission, and it has been continuously probed throughout this entire inquiry along the very lines that I have been proceeding upon.

(The previous question was then read as follows:)

"Did you acquire that option from what is commonly known as the Santa Fe interests?"

Mr. Kirby: Why couldn't I save time by stating the whole case from start to finish? You are inquiring about the Kountze lands?

Mr. Garwood: That is just with you. Of course I am bound to frame my interrogatories in a direct way so they can be objected to.

6612 Commissioner Harlan: Answer the question in your own way, Mr. Kirby.

Mr. Kirby: Answering the question, the present option contract on this land is held by Mr. David L. Gallup, as I understand, for the Atchison Railroad, that is with him. The title to the property is in Mr. Gallup, as I understand, and my option with Mr. Gallup to buy it.

Mr. Garwood: Is that option a recent option, or is it of long standing?

Mr. Kirby: Well, there were two. I obtained from Kountze Brothers in New York an option to buy these lands in 1900. Then I got a renewal of that option in 1901. I assigned the second option to the Houston Oil Company. They could not raise the money, the option price was $2,135,000, and the Houston Oil Company was to buy the land for the purpose of subjecting the timber to the timber contract with the Kirby Lumber Company which had been previously executed. The Houston Oil Company could not raise the money, and they extended me the privilege of exercising the option, if I could find the money, so I got Mr. Ripley of the Santa Fe to advance $2,000,000 to buy those lands, and took the title in Mr. Gallup, and gave him a five year option in which to repurchase the land. That option expired a long time ago, but a new

6613 option was executed with me in about July, 1909. The original transaction was in 1902.

Mr. Garwood: In order to acquire the original option, were you required to make any tonnage contract with the Santa Fe?

Mr. Kirby: Well, as a part of the transaction there was a tonnage contract.

Mr. Garwood: What was that tonnage contract?

Mr. Kirby: The lumber manufactured in mills located upon the Santa Fe rails in a certain territory—not all the mills, because one was excluded, but all mills east of the Neches River, if you get the location of the Santa Fe there you can see it——

Mr. Garwood: Yes.

Mr. Kirby: All lumber manufactured in mills east of the Neches River, the routing of that lumber was to be given to the Santa Fe so long as their rates were equal.

Mr. Garwood: Taking into consideration the 187,000 acres owned by the Santa Fe and the acreage owned by the Houston Oil Company which you were lumbering and the acreage owned by the Kirby Lumber Company and yourself, about how much lumber acreage would have been affected by that routing con-

6614 tract?

Mr. Kirby: Well, it only relates to that part of it east of the river.

Mr. Garwood: Yes.

Mr. Kirby: And it only relates to that part of it that might move within five years.

Mr. Garwood: Yes, well, within five years.

Mr. Kirby: So that would probably relate to five hundred million feet of timber out of seven or eight billions.

Mr. Garwood: In addition to the contract upon your part to give that tonnage to that interest, were you required to make other concessions relative to the lumber which you would sell to the Santa Fe.

Mr. Kirby: That had no relation to this transaction, no. I know what you are referring to.

Mr. Garwood: Of course your information is more accurate than mine.

Mr. Kirby: Well, when the Kirby Lumber Company was first organized, I made a contract with the Santa Fe for their supplies, ties, and material of that kind.

Mr. Garwood: Let me be exact about that. You say that this tonnage contract had no connection with your option to pur-

6615 chase——

Mr. Kirby: I did not say that.

Mr. Garwood: That is what I want to get at.

Mr. Kirby: My option to purchase was conditioned first that I should repay the money with five per cent interest, and all carrying charges and that sort of thing——

Mr. Garwood: Of course.

Mr. Kirby: It being semi-annual interest as it accrued. Second, that up to the time of declaring this option, I should have performed that tonnage contract routing out of these local mills on the Santa Fe, and I would not have as a legal proposition any right to route it otherwise, as it originated with them; but under that contract, whatever that value was, they controlled the routing of that tonnage. Of course, I sold the way I pleased. I might sell it export but it has to move over those rails. And in the extent that in its march to market it could pass over their rails, I presume they would put it over their rails.

Mr. Garwood: Now, as a part of the option contract, did you make any agreement with the Santa Fe by which you would sell them any given amount of material per year, at any given price?

6616 Mr. Kirby: I do not think that was a part of that option contract, but there was a contract between me and the Santa Fe by which I was to sell them ties, and the price was fixed, hewn ties so much, and sawn ties so much, and then lumber up to a certain quantity per year.

Mr. Garwood: Was that an independent contract?

Mr. Kirby: They may have been tied together, I have not examined them in so long, but the contract was made, and my recollection is it had no relation to the option contract on the Kountze land, but it may have. I think not.

Mr. Garwood: In order that you may not be misled, I will say to you that my information is, and I will disclose the source of it in a moment to you, that it was a part of the original option contract, so you may refresh your memory about it, if you care to.

Mr. Kirby: Well, I could only refresh my memory by looking up the document itself.

Mr. Garwood: You have the document here with you?

Mr. Kirby: I do not know that it is here; I presume it is.

Mr. Garwood: If it is here, you can advise us of that fact?

Mr. Kirby: Yes.

Mr. Garwood: And also refresh your own memory about it.

6617 Mr. Kirby: Yes, sir. I——

Mr. Garwood: Now, what was that contract by which you agreed to sell a certain amount of material to the Santa Fe road at given prices?

Mr. Kirby: I agreed to furnish the Santa Fe road with a certain number of hewn ties and piling at a price fixed, and I agreed to sell the Santa Fe certain mill products up to ten million feet a year at 20 per cent under the monthly market to other people, of the same class of goods. While that was the agreement they bought about three million feet under that agreement each year, and the agreement of course fell in 1904 when the properties went in the hands of a receiver. It was in operation about 18 months.

Mr. Garwood: But it continued in operation that time?

Mr. Kirby: That is this material agreement you speak about.

Mr. Garwood: You agreed then, in addition to selling certain specified lumber at certain specified prices to sell them 10,000,000 feet a year at 20 per cent below the market price.

Mr. Kirby: No, that was not the agreement.

Mr. Garwood: Well, I——

Mr. Kirby: Twenty per cent below my price on the stuff
6618 they wanted, that is the price at which I sold to others. Very probably I did not sell anybody any material in that length of time, but then——

Mr. Garwood: You do not mean to say you would fix your price on it, and then sell it 20 per cent below that price?

Mr. Kirby: I certainly would, and that is what I did substantially.

Commissioner Harlan: You mean your price to the public?

Mr. Kirby: Well, we did not have any published. The Santa Fe's was special sawing, Judge, so there was no public.

Mr. Garwood: You were not considering the public?

Mr. Garwood: Mr. Hodges was a fine purchasing agent.

Mr. Garwood: I want to see if I understand it. I confess I do not. What did the contract mean by saying that you would sell at 20 per cent below the market price?

Mr. Kirby: It did not say that.

Mr. Garwood: I am talking merely from memory. You have the contract.

Mr. Kirby: It said 20 per cent below our prices on the same material to other customers during the same months. Well, we had no such customer.

Mr. Garwood: Such public as you had then——

6619 Mr. Kirby: There wasn't any. There was special sawing to the Santa Fe, and that is the only price made. Of course

the Santa Fe still got it at our price as cheap as everyone else, otherwise we would not have gotten any order.

Mr. Garwood: Will you explain what benefit the Santa Fe would have got out of the 20 per cent reduction——

Mr. Kirby: I cannot see any.

Mr. Garwood: Under your theory?

Mr. Kirby: I cannot see any for them, and as evidence that there wasn't any, they did not order but three million feet a year, although they had a right to call for ten million.

Mr. Garwood: Have you that contract?

Mr. Kirby: It is here among the papers.

Mr. Garwood: I wish you would get that and look up these particular provisions, because I confess the 20 per cent reduction is not clear, or its meaning, from your statement of it.

Mr. Kirby: I think it is very clear.

Mr. Coleman: I think if you had understood it you would not have persisted in that line of questions.

Mr. Garwood: That possibly may be correct, Mr. Coleman, but I think for your benefit that we will understand it thoroughly
6620 before we get through; with Mr. Kirby's assistance, I think we will make it perfectly clear. Now did the Santa Fe make any contract with you by which it agreed to cancel all through routes with its connections?

Mr. Kirby: Yes, sir,—no, not that.

Mr. Garwood: Now you say yes and no. Just explain that.

Mr. Kirby: This is what you are driving at, Judge. (Producing paper.) That is with the Atchison, Topeka & Santa Fe.

Mr. Garwood: Well, whichever it is, the Atchison, Topeka & Santa Fe or the Santa Fe.

Mr. Kirby: When I sold them my rights on the 28th of June, 1900, this is the original contract with the Santa Fe, I tried to get in a provision and I got it in this contract, that they would pursue the Missouri Pacific policy of maintaining their territory of cancelling out when they had completed over into East Texas and got their lines all constructed, their divisions with lumber originating lines. We made the contract, but it has never been enforced. There has never anything of that kindness been done.

Mr. Garwood: Well, that is a matter to be determined later. You have no objection to our seeing the contract?

6621 Mr. Kirby: No.

Mr. Cowan: I would like to ask Mr. Garwood if he knows any law which prohibited any such contract in 1900 and 1904.

Mr. Garwood: I do not care to state——

Commissioner Harlan: Counsel does not insist upon an answer. If he did, we would not stop to hear it. Proceed with your inquiry, Judge Garwood.

Mr. Garwood: We may see the contract, Mr. Kirby?

Mr. Kirby: Yes, sir. (Handing paper.)

Mr. Garwood: Will your Honor permit us to inspect it?

Mr. Kirby: The last clause is the only thing. Everything else relates to the sale of the securities of the road.

Mr. Andrews: And the date?

Mr. Kirby: June 28th, 1900.

Mr. Andrews: And the date of the charter of the Kirby Company?

Mr. Kirby: July 5th, 1901. A little over a year after. This is a personal transaction between me and the Santa Fe.

Mr. Garwood: Get that part of it. I do not care to see that part of the contract, except it relates to the transportation end of it.

Mr. Kirby: "Whereas the vendor"—that is what you want to see.

6622 Mr. Garwood: The clause of the contract to which you refer is this which I shall read: "And whereas, the vendor"——

Mr. Kirby: Kirby.

Mr. Garwood (Continuing): —"John H. Kirby is largely interested in timber lands adjacent to the lines of railroad of the Beaumont Company"—that is the company you were selling?

Mr. Kirby: Both companies.

Mr. Garwood "—and the proposed extensions thereof to be built by the Gulf, Beaumont & Great Northern Railway Company, and is prepared to engage in the business of manufacturing and dealing in lumber, ties, piling and timber, and is interested in the permanent adoption by the Atchison Company of the policy of promoting the advantageous distribution of the lumber, ties, piling and timber to be manufactured along the lines of the Beaumont Company, and of said extensions, therefore the Atchison Company agrees that upon the performance of this agreement by the vendor, and upon completion of the connection between said Montgomery branch, and the line of the Beaumont Company, and so long as the commercial demand for lumber, ties, piling and timber shall be supplied by ship-

6623 pers on the line of the Beaumont Company, it, the Atchison Company, so far as it legally may do so, will cause to be cancelled, all divisions of through rates upon lumber, ties, piling and timber between the lines in its systems and other connecting lines originating such lumber, ties, piling and timber in the States of Texas and Louisiana, and so far as it may lawfully do so it will refuse to make such divisions."

That is correctly read, is it?

Mr. Kirby: I think so.

Mr. Garwood: Now, Mr. Kirby, is there anything else in this contract relative to your transportation relations with the Atchison road?

Mr. Kirby: Not a thing. You mean that contract?

Mr. Garwood: In this contract here.

Mr. Kirby: Not a thing.

Mr. Garwood: I want to avoid reading the contract if I can.

Mr. Kirby: Not a thing. The balance of the contract relates to the sale and delivery of the road, and sale of its securities. Mr. Morowitz wrote the contract.

Mr. Garwood: Is there anything in this contract by which

6624 you bind yourself not to incorporate any road or anything of that kind?

Mr. Kirby: Not a line.

Mr. Garwood: I do not want to go farther than the transportation end of your contract.

Mr. Marble: May I see the contract?

Mr. Kirby: Yes.

Mr. Marble: Without stopping counsel, I wish to examine it.

(Paper handed to Mr. Marble.)

Mr. Garwood: What price did you get for those roads which you sold?

Mr. Kirby: Well, we got a good amount. I don't remember just now what it was. The original line, the 75 mile line, was bonded for $20,000 a mile, and——

Mr. Andrews: It does not seem to me that a road that was sold by an individual before the incorporation of the company which is now doing the business is legitimate subject matter for inquiry here.

Mr. Garwood: It possibly may be a little remote. I thought it was so immediately connected with it that it might shed some light on it.

Mr. Kirby: I did not get as much as the property was worth.

6625 Mr. Garwood: Well, I hope you got a good deal. I do not care to press it, if there is objection to it.

Commissioner Harlan: Well, counsel does object. Do you care to press the question?

Mr. Garwood: I thought it might shed light on the entire transaction, but it is not of sufficient moment to argue.

Commissioner Harlan: Then we will pass to something else.

Mr. Garwood: Whether in this contract or not, is there anywhere, or have you at any time made, any agreement with the Santa Fe in writing or orally by which you bound yourself not to incorporate your lines?

Mr. Kirby: No, sir.

Mr. Garwood: Or not accept divisions?

Mr. Kirby: No. The Santa Fe offered them, and I declined them.

Mr. Garwood: They offered to give you them?

Mr. Kirby: Yes, sir.

Mr. Garwood: Not the Santa Fe?

Mr. Kirby: Yes, sir. I am here to give you full information. I am the sole offender. The Santa Fe is not responsible for my not getting divisions.

Mr. Garwood: That was a voluntary exclamation of surprise. I thought the Santa Fe never did that. Of course I do not

6626 mean to question the accuracy of your statement, Mr. Kirby. What did they offer you?

Mr. Kirby: At the beginning the offer made was two cents per hundred pounds; then that offer was made while the receivership was pending upon my property, and the property was being administered by the federal court, and the proposition was that the lines should be incorporated, and the Santa Fe would immediately put in divisions with the lines of two cents per hundred pounds.

Mr. Garwood: What date was that?

Mr. Kirby: Well, that was four or five years ago.

Mr. Andrews: The receivership began on the first of February, 1904.

Mr. Kirby: And it closed in July, 1908, and it was before the panic in 1907, it must have been four years ago anyway.

Mr. Garwood: Now the Santa Fe on the date of that contract agreed with you to cancel out all through rates?

Mr. Kirby: Yes, sir.

Mr. Garwood: Did they do that?

Mr. Kirby: They never did.

Mr. Garwood: Never at any time?

6627 Mr. Kirby: Not that I have any information of.

Mr. Garwood: You expected them to do it, did you not?

Mr. Kirby: I did not.

Mr. Garwood: Why did you make the contract?

Mr. Kirby: Well, at the time I made the contract we had no rate from our territory down there in Southeast Texas, where I was largely interested, and which I often call my country, except Southern Pacific rates, and they were east and west rates, and did not go anywhere, and the Missouri & Pacific would not let us get into their territory, and the Southern Pacific had no general rates to the market, and I wrote this in here for the purpose of protecting our territory as much as I could when we got the Santa Fe in there, that we would have as wide rates as possible. And after the Santa Fe entered this territory, the whole rate situation has changed. We want interchanges with everybody, and it has never been to my advantage to ask the Santa Fe to cut out divisions. It might have been to a temporary advantage.

Commissioner Harlan: You mean cut out divisions?

Mr. Kirby: Cut out divisions with the originating line, because we all got a blanket rate, and we are supposed to go to market together.

Mr. Garwood: Well, you considered it a valuable contract

6628 to you if they would cut out divisions with all connecting lines, did you not?

Mr. Kirby: It might be a valuable contract to the territory down there, it might become so.

Mr. Garwood: I mean to you and your interests, the Kirby Lumber Company.

Mr. Kirby: I thought it was of some value to me at that time. The Kirby Lumber Company had not been dreamed of at that time.

Mr. Garwood: I know, but the Kirby Lumber Company succeeded to the benefits of that contract.

Mr. Kirby: Not necessarily, except that the Kirby Lumber Company has acquired large interests in the territory served by the Santa Fe road down there. I never conveyed this contract, or any right under it, to anybody else in the world.

Mr. Garwood: Can you estimate the value per thousand feet of lumber of that contract to cancel out through rates?

Mr. Kirby: I do not think it is worth five cents on a million feet of lumber, but I may be mistaken about it.

Mr. Garwood: I will ask you, after the receivership of the Kirby Lumber Company was instituted, if you did not allege in
6629 a pleading filed in court, that the Kirby Lumber Company had succeeded to the benefits of this contract, that this contract was in force after you had acquired the Kountze option, and that you yourself estimated the benefit to you and your interests of this cancellation of the through rate by the Santa Fe at not less than one dollar, or one dollar and fifty cents per thousand feet of lumber.

Mr. Kirby: You know, Judge when you lawyers go to prepare pleadings and present a case, you put everything in it you can. I understand something of that character was put into that pleading——

Mr. Garwood: But, Mr. Kirby, this was an equity answer——

Mr. Kirby: Prepared by the lawyers, nevertheless, is the point I make.

Mr. Garwood: And was it not signed and sworn to by you——

Mr. Kirby: I do not remember about that. We usually sign whatever you prepare for us.

Mr. Garwood: Would it refresh your recollection if I should show you the allegation?

Mr. Kirby: No, I read that in your notice, it was called to my attention then. I didn't really know until that time that it had ever been made.

6630 Commissioner Harlan: We will not stop on that, Judge Garwood. You have stated in substance.

Mr. Garwood: I think it is material in this connection, to see if I have stated its substance.

Mr. Kirby: That was not a contract with the Santa Fe Railroad Company, Judge, or any parties to this contract.

Mr. Garwood: This pleading purports to have been filed at some time subsequent to March 25th, 1905. Now I will ask you if in that pleading——

Commissioner Harlan: Will you be kind enough to let the witness read it?

Mr. Kirby: Whatever was in the pleading was stated in the pleading.

Commissioner Harlan: Will you let me see it, and let the witness see it.

Mr. Garwood: Surely, beginning at paragraph 13—paragraphs 13 and 14.

Commissioner Harlan: What do you want to do, read all this in the record?

Mr. Garwood: I will offer it at some time in the proceedings, your Honor.

Commissioner Harlan: Very well.

6631 Mr. Garwood: But I want to call the witness's attention to his allegation. You say this contract——

Mr. Kirby: You had better put the lawyer on the stand who drew them. They are not mine.

Mr. Andrews: It seems to me there can be but one possible purpose to read the declaration in the answer, and that purpose would

be in contradiction of what the witness has just stated. He has explained how the answer was made, and his connection with it, and it seems to me that is all that could be said in connection with it, with the question of a pleading in a case concerning a contract, that the witness says has never been enforced, and that no one here is ready to assert was ever in force, or is in force now, is immaterial and useless consumption of time.

Commissioner Harlan: The pleading seems to indicate that the contract gave an advantage to the witness. I would like to ask the witness whether that was or was not the fact. If it was not the fact, state why it was not the fact.

Mr. Kirby: I do not know of any advantage in the world that cancelling out divisions with the Santa Fe down there would be of any value to us at all. There is no local market on the Santa Fe to amount to anything, and since that contract was made, the Santa Fe has itself extended into Louisiana and has some 80 miles
6632 of road over there, so that under present conditions I cannot see any value in the world to such mills as we have on the Santa Fe from cancellation of rates.

Commissioner Harlan: Well, did you think it had a value at the time this answer was prepared and filed?

Mr. Kirby: I do not remember that I was consulted about that at the time, and I do not think it had any more value then than now, because the Santa Fe had extended into Louisiana then, is my recollection, at the time this pleading was prepared.

Mr. Garwood: How could your attorneys have drawn up an equity pleading of this character without that information from you?

Mr. Kirby: They would get it from the general records. You have prepared many a one without consulting your clients, knowing the facts yourself.

Mr. Garwood: Not when he has to sign it and swear to it——

Commissioner Harlan: I do not think we will stop longer on that.

Mr. Garwood: He asked me the question.

Commissioner Harlan: If you desire to offer it, it may be copied and attached as an exhibit.

Mr. Garwood: I wish to ask if you did not in that answer
6633 allege that this contract that we have just read, by which the Santa Fe agreed to cancel out all through rates would give the Kirby Lumber Company an advantage of about one dollar per thousand feet of lumber over and above what its competitors would receive, located on other lines of railway.

Commissioner Harlan: I think that sufficiently appears.

Mr. Kirby: So far as the allegation is concerned, the allegation is there, but of course nobody could find out the fact. Why would it be?

Mr. Garwood: That was your idea at the time?

Mr. Kirby: I do not think so; I do not think that feature was brought to my attention, but that document——

Mr. Garwood: Let us see whether or not you were correct about it. If through rates with connecting lines were cancelled out, your mill being situated on the Santa Fe, and your competitors not being situ-

ated on the Santa Fe, you would go in on the through Atchison rate, and your competitors would go into Atchison territory on the combination of the rates, and is it not entirely possible that when you set up in this equity pleading that you would get one dollar a thousand advantage over your competitors that you were alleging the actual absolute fact?

Mr. Kirby: No, sir, you do not state the fact, because we
6634 have got lots of competition on the Santa Fe rails. If I had a monopoly of the business of originating lumber on the Santa Fe, and then I had the monopoly of delivering lumber on the Santa Fe, that is one thing; but that condition does not exist.

Mr. Garwood: You say you had——

Commissioner Harlan: Will you oblige the Commission by proceeding to some other point? I think we have all in the record on that point that we desire.

Mr. Garwood: The witness stated——

Commissioner Harlan: Are you going to pursue that inquiry farther?

Mr. Garwood: I will tell you, the question I am going to ask right now——

Commissioner Harlan: Very well.

Mr. Garwood: The witness has stated that if he had a monopoly of the territory on the Atchison that would inure to his benefit. I am now going to ask him if he himself did not allege in the same pleading, and if it were not a fact that if his dealings with the Santa Fe were carried out, he would have the very monopoly that
6635 he says would have produced that result.

Commissioner Harlan: Can you answer that question?

Mr. Kirby: It may be alleged in the document, but then it is not the truth.

Commissioner Harlan: Very well.

Mr. Garwood: I want to ask him if he did not at that time allege that with his own holdings, and his co-related companies, with the Kountze land, and the Houston Oil Company's land, if he would not have practically all the territory along the Santa Fe, and that thereby the benefit of that contract would inure exclusively to him and his interest.

Commissioner Harlan: Are you asking him what he alleged?

Mr. Garwood: I am asking him if he alleged that in the pleadings.

Commissioner Harlan: The pleading shows for itself. The witness need not answer. Will you proceed with some other question.

Mr. Garwood: After these relations concerning which I have inquired were terminated, did you take up further relations with the Santa Fe interests relative to the financing of your properties?

Mr. Kirby: Well, I do not know what you mean by
6636 financing, Judge.

Mr. Garwood: That is a little general. That objection is well taken. I will ask you if you now owe the Atchison interests any amount of money in connection with these enterprises over there. Not outside; I want to confine it as to these properties situated on the Santa Fe.

Commissioner Harlan: You refer to this loan which has already been referred to?

Mr. Garwood: No, this is another branch of it.

Mr. Andrews: The objection is as to the form, and not as to the substance of the question. I am perfectly willing for the witness, without objection, to state what the transaction was, but in the form the question is put, it carries with it a conclusion which I object to in the form stated.

Commissioner Harlan: Perhaps you can re-form that question.

Mr. Garwood: I do not want to suggest any conclusion. All I want is the fact.

Mr. Andrews: Just let him tell it.

Mr. Kirby: We owe the Santa Fe some money. Is that what you want to get at?

Mr. Garwood: Well, that is the direction my question
6637 pointed.

Mr. Kirby: I borrowed from the Santa Fe in July, 1909, 18 months ago, $500,000, and gave them a mortgage on eight million dollars' worth of property, and I paid them interest at the rate of seven per cent per annum, and still owe $400,000 of that money.

Commissioner Harlan: When you say "I," do you mean the Kirby Lumber Company?

Mr. Kirby: Yes, sir.

Mr. Garwood: Does that loan embrace the Kirby Lumber Company's holdings as well as your own?

Mr. Kirby: It is no part of my own; I am not a party to that. It is a Kirby Lumber Company loan, and the Kirby Lumber Company executed a general mortgage upon all its assets. They are recorded down there in the deed records, to secure $500,000.

Commissioner Harlan: The mills, and lands, and railroads?

Mr. Kirby: Yes, sir.

Mr. Garwood: That mortgage was made to a trustee?

Mr. Kirby: The American Trust Company & Savings Bank of this city.

Mr. Garwood: What is the name, Chapman?

6638 Mr. Kirby: Well, Mr. Chapman is an officer of the bank. The bank has changed its name now, and has another name, but that was the name at the time.

Mr. Garwood: Did the Kirby Lumber Company convey to this party who holds this in trust, all of its properties?

Mr. Kirby: Well, substantially so, according to my recollection. It may not have the personal properties.

Mr. Garwood: I mean its landed properties.

Mr. Andrews: I beg pardon for the interruption, but there are two transactions. I think Mr. Kirby understood you as talking about one, and he answered as to the other. The mortgage was upon the entire property to secure $500,000, but the transaction with Chapman was in a different form.

Mr. Garwood: Just state it, please.

Mr. Kirby: The Kirby Lumber Company sold its land which in-

cluded my previous holdings which amounted to about 130,000 acres is my recollection, to Mr. J. R. Chapman, for three million dollars practically—I think that is about the sum. It was sold on a timber basis to Mr. Chapman, and then we took a contract back; the contract is personal to me, my personal option upon those lands to rebuy them in the course of five years; very similar to the Gallup
6639 option.

Mr. Garwood: I see, as counsel stated there are two transactions.

Mr. Kirby: Yes.

Mr. Garwood: You borrowed in one, $500,000 from the Atchison interest?

Mr. Kirby: Yes, sir.

Mr. Garwood: And that is secured by a mortgage?

Mr. Kirby: Yes, sir.

Mr. Garwood: And then you sold——

Mr. Kirby: In the other transaction.

6640 Mr. Garwood: In the other transaction for three million dollars, to the same interest, all of your timber holdings?

Mr. Kirby: No, certain of our timber holdings.

Mr. Garwood: About what proportion?

Mr. Kirby: We have 30,000 or 40,000 left; I don't know accurately just what it is.

Mr. Garwood: All but that?

Mr. Kirby: Yes. We sold up to three million dollars of value, because that was the sum of money we needed.

Mr. Garwood: The Kirby Lumber Company made one deed to Mr. Chapmon, acting for the Santa Fe?

Mr. Kirby: Yes.

Mr. Garwood: Then you made another deed, did you, in person?

Mr. Kirby: Yes, sir; instead of passing my lands over to the Kirby Lumber Company and having double record fees, I conveyed them direct to Mr. Chapman.

Mr. Garwood: And those two transactions covered all the land conveyed to the Santa Fe?

Mr. Kirby: Yes.

Mr. Garwood: So then, the Santa Fe, in addition to 187,000 acres of the Kountze land, has got title subject only to your
6641 option to repurchase *to* all of the other land with the exception of thirty or forty thousand acres?

Mr. Kirby: Well, about 130,000 or 140,000.

Mr. Garwood: The two deeds from you and the Kirby Lumber Company cover about 130,000 or 140,000?

Mr. Kirby: I think so.

Mr. Garwood: So the Santa Fe has fee titles to the 187,000 acres of the Kountze land and 130,000 acres acquired from you and from the Kirby Lumber Company?

Mr. Kirby: Whatever it is, I cannot testify as to the acreage exactly, but in that neighborhood.

Mr. Garwood: Now, in your examination this morning, as illustrative of the influence of divisions upon sales, you instanced a case

where the Denver & Rio Grande was in the market for a large supply of material?

Mr. Kirby: Yes, sir.

Mr. Garwood: And you tried to get the contract of sale? Do you know who did get the contract?

Mr. Kirby: Well, I have heard, but I don't know definitely. I do not recall; it is among our papers. I do not know whether Mr. Bonner knows, if he is here.

Mr. Garwood: I will ask you if it was not some lumber
6642 broker down there who got the contract?

Mr. Kirby: Part of it.

Mr. Garwood: And he went around and filled it up from this, that or the other lumber company?

Mr. Kirby: Well, any lumber broker has to do that.

Mr. Jeffery: What was that date?

Mr. Kirby: But it had bought all on Santa Fe land. He could not buy it on the Santa Fe where our mills were.

Mr. Jeffery: What date was that?

Mr. Kirby: Last year some time.

Mr. Jeffery: 1910?

Mr. Kirby: Yes, sir.

Mr. Garwood: You stated this morning, and I think correctly, that under the Texas laws, a common carrier regularly incorporated as such and holding itself out to the public as such, has not the right to take up its track when it gets through its operations, and as I understand, that was the reason why you never incorporated?

Mr. Kirby: No, it is only one of the reasons.

Mr. Garwood: That is one of the reasons why you never incorporated. The Texas laws as a rule are more or less strict and severe, are they not? I ask you these questions. You are a lawyer
6643 as well as a lumber man.

Mr. Kirby: No, I used to have a license, but there is a distinction.

Mr. Garwood: They are quite strict in both their laws and their decisions as to the requirements they make of common carriers, are they not?

Mr. Kirby: Well, we think so down there, you know. We sympathize with your clients who think that thing.

Mr. Garwood: Very often they need it. In their requirements as to full crews, equipment of trains of every character, the station facilities and conveniences around stations.

Mr. Kirby: Yes.

Mr. Garwood: All of those can be required, and a multitude of others that I do not now mention can be required by our laws and our Commission?

Mr. Kirby: Yes, sir.

Mr. Garwood: And they are enforced with more or less severity, are they not?

Mr. Kirby: On the trunk lines.

Mr. Garwood: Are they not enforced on other lines?

Mr. Kirby: I do not know of any tap line that is getting it applied to them.

6644 Mr. Garwood: Don't you know of tap lines that have been required to furnish equipment, and things of that kind?

Mr. Kirby: No.

Mr. Garwood: And if a tap line——

Mr. Kirby: That is, you mean required?

Mr. Garwood: Yes, required by the Commission.

Mr. Kirby: I know of them furnishing equipment, but then the word "required" is different.

Mr. Garwood: Don't you know of instances where they have been required to furnish the equipment?

Mr. Kirby: No.

Mr. Garwood: If the mere fact that you could not take up your rails was one of the reasons you would not incorporate as a common carrier, all these additional reasons would apply with added force?

Mr. Kirby: Yes, sir.

Mr. Garwood: In the State of Texas?

Mr. Kirby: Yes, sir.

Mr. Garwood: Now, you say that you carefully refrained from being acted upon as a common carrier, as far as you could?

Mr. Kirby: Yes.

6645 Mr. Garwood: Then those with timber lands adjacent to your various trams of course have no way of marketing that timber unless somebody else builds a line in there and incorporates it?

Mr. Kirby: They have the same way I have; they can build their own roads.

Mr. Garwood: Yes, they can build their own roads.

Mr. Kirby: Yes.

Mr. Garwood: But a man who cannot command a loan of three millions of dollars is not——

Mr. Kirby: We did not put any of that in a tram road, Judge.

Mr. Garwood: Is not apt to rush into and contract the obligation to build a railroad in Texas, as a general proposition, is he?

Mr. Kirby: I don't just understand the question. The man cannot borrow the money?

Mr. Garwood: A man who cannot raise large sums of money is not apt to do it, so that the small landholder located along any of your lines cannot get to market——

Mr. Kirby: Oh, yes, he can.

Mr. Garwood: With his stuff, without either he builds a

6646 road or somebody else builds it for him.

Mr. Kirby: That is true; there is no market whether he is a big or small landholder unless he has facilities to get to the trunk line.

Mr. Garwood: Unless he has facilities to get to the trunk line. Now, coming back just for a moment, you stated this morning that equality of rates was the prime consideration——

Mr. Kirby: In rate making; yes, sir.

Mr. Garwood: In your judgment. Of course you understand that

there can be no system of rates mathematically and theoretically perfectly equitable and just to everybody; that is a matter of impossibility.

Mr. Kirby: I presume it is; that is, considering the carrier and the consumer and the producer everywhere, perhaps all of them have some hardship somewhere.

Mr. Garwood: Don't you think a contract upon which the line upon which all your mills were situated would cut off people in the same business as yourself from through rates to consuming territory would be unjust to all of those that were situated on the connecting lines and who were cut off?

Mr. Kirby: It would depend entirely upon what the connecting line did to them. If you are under a blanket system where
6647 those things are reciprocated—but suppose no line in the country had any divisions with the originating line except the one I was on; I would be at a disadvantage against every lumber man who could get into the market, and I would be limited to one.

Mr. Garwood: Do you think that condition existed at that time?

Mr. Kirby: It did not altogether, but that was long before you were associated with the Southern Pacific, and we only had one line down there, and we suffered from "Southern Pacific fly."

Mr Garwood: I am not associated with the Southern Pacific. We are mutually correcting each other.

Mr. Kirby: Then I am sorry.

Mr. Garwood: I am associated with the Houston, East & West Texas and the Texas & New Orleans, so that the record may be straight.

Mr. Kirby: Well, the T. & N. O., when we did not have but that one railroad running east and west, we suffered from what we called "Southern Pacific fly" a very unjust designation of the Southern Pacific in that regard, because it did not have power to make rates when it had no rails.

6648 Mr. Garwood: It tried to do the best it could under the circumstances?

Mr. Kirby: I think so.

Mr. Garwood: You have not always been opposed to incorporation and allowance of divisions to short lines, have you?

Mr. Kirby: It is owing to what you call a short line. The length of the railroad does not determine its merits.

Mr. Garwood: Would you term your various lines short lines?

Mr. Kirby: They are nearly all short lines, but they are not railroads. There are lines shorter than mine that are called railroads.

Mr. Garwood: You stated a short time ago that the Santa Fe offered you two cents, was it?

Mr. Kirby: Yes, sir.

Mr. Garwood: And that you declined to take it.

Mr. Kirby: Well, that was probably an erroneous statement to say I declined. I asked them not to pursue the matter any farther until I could see Mr. Ripley. I wanted to discuss it with him, as to the necessity for it.

Mr. Garwood: At any rate you did not take it, but dropped it?

Mr. Kirby: Yes, sir.

6649 Mr. Garwood: I want to ask you if you did not at one time enter into a contract with Mr. Yoakum to incorporate all of your lines, and operate them as a common carrier?

Mr. Kirby: No, sir.

Mr. Garwood: Now, by "you," I mean the Kirby Lumber Company.

Mr. Kirby: I know what you are talking about. I sold to the Rock Island, or made a contract to sell to the Rock Island rather, about 140 out of our 200 miles of road, such mileage as they wanted in building a trunk line through that territory. They advanced $600,000 on the contract, but we got in litigation over the contract in the receivership and before the litigation was ended the period of time in which we would do these things had expired, and the Rock Island refused to go forward with it, but it was a sale to a railroad corporation to be organized for a certain consideration, reserving the trackage rights on a wheelage basis over the lines of road, and 49 per cent of the stock to be owned by the Kirby Lumber Company; it was a mere sale of these existing roads, but no stipulation as to any division to the Kirby Lumber Company unless there was an earning on the stock.

Mr. Garwood: Not to the Kirby Lumber Company, but to the——

6650 Mr. Kirby: To the Rock Island Road, who would own a majority of the stock, or to the railroad company.

Mr. Garwood: You say there was no stipulation as to the division?

Mr. Kirby: No, sir.

Mr. Garwood: Was not that——

Mr. Andrews: I beg your pardon for the interruption, but I think he does not understand the question you asked.

Mr. Garwood: I do not want to mislead him of course.

Mr. Andrews: I do not think the thing should be misstated. I think he understood you to ask if there was no provision in the contract for divisions.

Mr. Kirby: Yes, sir.

Mr. Andrews: I think you answered no, meaning that the Kirby Lumber Company would get anything.

Mr. Kirby: That is what I meant.

Mr. Andrews: There was a provision in there that your railroad company should receive a division?

Mr. Kirby: A division of what?

Mr. Andrews: A division of the through rates, with whoever handled the traffic out that originated on that road.

Mr. Kirby: Well, that would be a matter that could not

6651 concern the Kirby Lumber Company.

Mr. Andrews: I understand that, but I did not want you to misunderstand each other.

Mr. Garwood: He did say the Kirby Lumber Company, but I was about to call his attention to the error. The railroad would receive it?

Mr. Kirby: Yes, because the lumber was destined beyond its line.

Mr. Andrews: And the contract was made with Mr. Yoakum too, in name?

Commissioner Harlan: Well, the contract was not made effective, was it?

Mr. Kirby: No.

Mr. Garwood: The allowance of divisions to the railroad was a part of your plan of organization, was it not?

Mr. Kirby: Well, I do not know anything about that——

Mr. Garwood: Well, it was contemplated——

Mr. Kirby: It was contemplated they would earn some money on the transportation, on the tonnage that they handled, if that is what you mean, but——

Mr. Garwood: Certainly, but it was to get divisions.

Mr. Kirby: Of course it was to get divisions with the con-
6652 necting lines, but I do not remember about anything of that sort being in the contract, although it may have been.

Mr. Garwood: Well, the contract consisted of an exchange of letters between you and Mr. Yoakum, did it not?

Mr. Kirby: And B. F. Yoakum.

Mr. Garwood: That correspondence would show whether or not the question of divisions was discussed?

Mr. Kirby: Yes, and we would be perfectly willing for it all to go in, so far as that goes.

Mr. Garwood: Yes, we will look into that later. It is your opinion, then, that you expected to get divisions on the lumber tonnage that would be originated on the roads of the Kirby Lumber Company which you proposed to incorporate as a railroad?

Mr. Kirby: I had no idea, Judge, that trunk lines were so liberal in the matter of divisions——

Mr. Garwood: Well, I am asking you——

Mr. Kirby: Let me give you the reasons, I would like to answer your questions.

Mr. Garwood: All right.

Mr. Kirby: So I did not consider the matter of divisions and did not suppose that would be so profitable. But the condition
6653 of the contract was that we would realize on an asset which otherwise we could not.

Mr. Garwood: You say you did not realize they were so liberal in their divisions. Did you not have some exact divisions in mind?

Mr. Kirby: Not that I recall. Mr. Yoakum may have in his correspondence. I do not remember.

Mr. Garwood: My recollection is that you had the matter very well reasoned out, and that you had——

Mr. Kirby: That may be true.

Commissioner Harlan: I think we have covered this matter enough. It would not control the Commission, what this witness thought about that matter. It might affect his testimony, but I think he has sufficiently cleared that up.

Mr. Garwood: Your Honor, I think from a legal standpoint that this testimony is admissible, else of course I should not ask it.

Commissioner Harlan: I assume that is so, but——

Mr. Garwood: I think it shows the attitude of the intervenor, and gives us a side light upon the value of his opinions and his standpoint, and while I do not wish to pursue it to any undue length, and I think your Honor must acquit me of any dereliction
6654 in this regard——

Commissioner Harlan: I will acquit you if you stop at this point, Judge Garwood, but I think you have covered the thing fully, and that was the suggestion I made.

Mr. Garwood: Now, I will ask the witness if the contract did not contemplate that you would secure for this railroad that was to be made by the roads hitherto owned by the Kirby Lumber Company——

Commissioner Harlan: Have you some letter which indicates that? If so, be kind enough to state it.

Mr. Garwood: Yes, I was about to state it.

Commissioner Harlan: Very well.

Mr. Garwood: "A division on joint freight rates with connecting lines which will afford to the railroad company on all oil and lumber traffic delivered by it to connecting lines a revenue of not less than three cents per hundred pounds, and on all other traffic received by the railroad company delivered from or by the railroad company to other connecting lines a revenue of not less than five cents per hundred pounds, and if such divisions on business within the State of Texas are fixed at higher rates by the Texas Railroad Commission, in that event such higher rates shall also apply
6655 on interstate business."

Commissioner Harlan: Is that a letter?

Mr. Garwood: That is a letter from Mr. B. F. Yoakum to Mr. Kirby as president of the Kirby Lumber Company of date November 8, 1903.

Commissioner Harlan: Very well.

Mr. Garwood: That is a correct statement of the contract as set out in the letter?

Mr. Kirby: I guess that is correct. I do not recall that the matter of divisions was discussed.

Mr. Garwood: How many of those lines were included within this deal by which you were to incorporate a railroad and operate them?

Mr. Kirby: My recollection is there was about 140 miles, including about five or six miles of terminals in the city of Beaumont.

Mr. Garwood: What was the consideration of that deal?

Mr. Kirby: Well, Judge, the papers there show. I have not looked at them.

Mr. Garwood: I do not care to put it in——

Commissioner Harlan: You mean as stated in the contract?

Mr. Garwood: Yes.

6656 Commissioner Harlan: If you have it there, just state it.

Mr. Garwood: There was a good deal of it, and I did not want to stop to read it right now. It is quite a long contract.

Mr. Andrews: I can answer, if you want me to.

Mr. Garwood: I would be glad if you would.

Mr. Andrews: It was a million dollars, to be issued guaranteeing such additional amount as the Railroad Commission of Texas might authorize, less $1,000 a mile for stock. It was definitely known as one million dollars.

Mr. Garwood: That statement by Mr. Andrews is correct?

Mr. Kirby: That is my recollection of it. I think that is right.

Mr. Garwood: What was to become of the stock of the railroad company which was to be organized?

Mr. Kirby: My recollection is that the Kirby Lumber Company should own 49 per cent and the Rock Island or Mr. Yoakum the other 51 per cent.

Mr. Garwood: And the Kirby Lumber Company as such would own the stock directly of the New Railroad corporation?

Mr. Kirby: Yes, sir.

Mr. Garwood: And the Rock Island interests would own
6657 the majority of the other stock?

Mr. Kirby: Yes, sir.

Mr. Garwood: Now you actually incorporated that railroad?

Mr. Kirby: Well, there was a charter obtained.

Mr. Garwood: Did you not go so far as to make a transfer of all of your roads embraced within these preliminary negotiations to the newly organized corporation and make a deed?

Mr. Kirby: That may have been. I don't remember; I do not think so. Possibly it may have been so.

Mr. Garwood: I will state to you that is my understanding.

Mr. Kirby: Papers were executed for $600,000 that was advanced to us, but I do not think any transfer was actually made to the railroad company.

Commissioner Harlan: If counsel ascertains that afterward he may state it for the record.

Mr. Garwood: Who constructed the Orange & Northwestern Railroad?

Mr. Kirby: I do not know except from hearsay.

Mr. Garwood: Well, just state it.

Mr. Kirby: The Orange mill interests are supposed to have done it.

6658 Mr. Garwood: That runs from Orange to a connection with the Santa Fe about Buna?

Mr. Kirby: Yes, sir.

Mr. Garwood: And thence out to Newton?

Mr. Kirby: Yes.

Mr. Garwood: Do you know what interests own that railroad?

Mr. Kirby: The Frisco.

Mr. Garwood: I notice you have a mill at Call.

Mr. Kirby: Yes, sir.

Mr. Garwood: There is Call Junction and Call. Where is Call Junction?

Mr. Kirby: Call Junction is on the Santa Fe, and the mill at Call is on the Frisco.

Mr. Garwood: What is the production of that mill?

Mr. Kirby: It is about 150,000 feet a day.

Mr. Garwood: About what is your average output of cars of lumber?

Mr. Kirby: I suppose, running the mill day and night, as we often do, about 300 cars a month, maybe more than that.

Mr. Garwood: Can you state about what proportion of that traffic goes to the Frisco on which your mill is situated, and what to the Santa Fe?

6659 Mr. Kirby: There is not a great deal going to the Frisco now. Probably it will all go Frisco after a while.

Mr. Garwood: Has any been going to the Frisco up to this time to any great extent?

Mr. Kirby: Yes, sir.

Mr. Garwood: What proportion?

Mr. Kirby: I could not tell the percentage; it is not very large. Where the Frisco have better rates than the Santa Fe, if that is what you want to know. The Santa Fe, so long as the rates are equal, would have the right to the first call on the business out of that mill, but there are a number of points where the rates are not equal.

Mr. Garwood: And then you ship over the Frisco?

Mr. Kirby: Yes, sir.

Mr. Andrews: For your information, here is a statement as to the cars by the year, but not by the mill, which was offered in evidence. It gives the Santa Fe and other railroads, and shows those on the Frisco. It does not specify any individual mill.

Mr. Garwood: That proposition applies to all of these mills, wherever you have a connection with another line, the Santa

6660 Fe has the call on the traffic, provided the rates are equal?

Mr. Kirby: Yes, sir.

Mr. Garwood: And that is applicable to all of your mills wherever situated?

Mr. Kirby: Yes, sir—well, no; all mills east of the Neches River.

Mr. Garwood: And those west are not embraced within that agreement?

Mr. Kirby: No; you see we have some mills on your line and you get all of it.

Mr. Garwood: Now, you are a railroad man also, are you not, as well as a lumber man and a lawyer?

Mr. Kirby: Well, I am a director in a company—yes, I am president of a railroad company.

Mr. Garwood: What railroad is that?

Mr. Kirby: That is an important road down there, the Burrs Ferry, Browndel & Chester. You may not know it by its name, but doubtless you have transportation over it.

Mr. Garwood: I receive transportation over it?

Mr. Kirby: I had supposed Judge Andrews would exchange with you.

Mr. Garwood: I hope you will regulate that and put me on

6661 your list. Where does the Burrs Ferry, Browndel & Chester appear on the map?

Mr. Kirby: There is only eleven miles in operation. It begins at Rockland on the Southern Pacific and runs east eleven miles.

Mr. Garwood: Where is its ultimate destination?

Mr. Kirby: Well, the chartered termini west is at Chester, on that orphan of the M. K. & T., as they call it, and the east is at the Sabine River, about eighty miles.

Mr. Garwood: How far is it from connection with the Santa Fe?

Mr. Kirby: About twenty miles at the present time.

Mr. Garwood: What is the general character of that road?

Mr. Kirby: It is laid with new 60 pound rail, rock ballasted, and the best piece of property in east Texas for its length—I mean physically, I do not mean in earning power.

Mr. Garwood: Is it a common carrier?

Mr. Kirby: Yes, sir.

Mr. Garwood: What enterprises are situated along there?

Mr. Kirby: There is one saw mill owned by the Aldridge Lumber Company, and a rock quarry, I believe owned by Dar-
6662 ragh Brothers of Galveston, and a turpentine concern, a New Orleans concern, and there are three or four little neighborhood mills out there, but they have not shipped any in two or three years.

Mr. Garwood: Your chief tonnage is rock and lumber?

Mr. Kirby: A little more rock than lumber on the tonnage basis.

Mr. Garwood: Where do you ship your rock to?

Mr. Kirby: Sabine Pass, when there is any work going on there. It is crushed rock for construction material, concrete and road building.

Mr. Garwood: Then if there is not any jetty going on at Sabine Pass, your rock tonnage will be cut off very much?

Mr. Kirby: No, there is a large commercial demand for crushed rock for road building and building all that sort of thing.

Mr. Garwood: You say that is one of the best roads in east Texas?

Mr. Kirby: Physically.

Mr. Garwood: And you of course expect it to get better as the country develops, do you not?

Mr. Kirby: Well, I don't know that that will improve
6663 very largely, because we have it rock ballasted. I don't know much else to do to it.

Mr. Garwood: I mean its general business and conditions will improve as the country develops.

Mr. Kirby: I could not say that; after the lumber is cut out I don't know about its general business. Improve? I do not think so, because its tonnage will diminish of course.

Mr. Garwood: You think, then, that the lumber will disappear along the line very soon?

Mr. Kirby: No.

Mr. Garwood: About how long will the lumber tonnage be left there?

Mr. Kirby: That is something like asking how big is a piece of chalk; it depends how fast it is cut off. If it is not cut any faster than it is now, it would be there a hundred or two years.

Mr. Garwood: There is not much cutting going on, then, those mills are not large on that branch?

Mr. Kirby: No. I have graded that road over as far as the Santa Fe on my way to Sabine and got my bridges in and was ready to lay the track when the panic came on in 1907 and I stopped and have not done anything.

6664 Mr. Garwood: It is graded, then, to Browndel?

Mr. Kirby: Yes, sir, it crosses the Santa Fe there.

Mr. Garwood: You have a mill at Browndel?

Mr. Kirby: The Kirby Lumber Company has a mill at Browndel.

Mr. Garwood: When you complete over to Browndel you will have an additional outlet besides the Santa Fe, then, for your lumber, will you not?

Mr. Kirby: Where?

Mr. Garwood: If you build over to Browndel——

Mr. Kirby: Oh, for the product of that mill?

Mr. Garwood: Yes.

Mr. Kirby: Yes, of course that would be a two-line mill.

Mr. Garwood: You own a controlling interest in the stock of the Burrs Ferry, Browndel & Chester?

Mr. Kirby: I own it all.

Mr. Garwood: You own the whole thing, then?

Mr. Kirby: Yes, sir.

Mr. Garwood: You are a stockholder in the Kirby Lumber Company, are you not?

Mr. Kirby: Yes, sir.

Commissioner Harlan: Do you mean the Kirby Lumber Company owns it or you personally?

6665 Mr. Kirby: I do personally. The Kirby Lumber Company has no interest in it, and is not a shipper over it.

Mr. Garwood: But when you complete into Browndel you will then have an outlet for your lumber. You of course see no reason why the Burrs Ferry, Browndel & Chester should not receive a transportation charge for any lumber of yours that it might ship from Browndel over to the T. & N. O., do you?

Mr. Kirby: No, sir.

Mr. Garwood: None in the world?

Mr. Kirby: No.

Mr. Garwood: Well, neither do I; we agree thoroughly on that proposition. Now, are——

Mr. Kirby: There might a reason arise, however.

Mr. Garwood: Well, there would not be any from the condition of facts I have stated to you?

Mr. Kirby: No.

Mr. Garwood: Things might happen subsequently that would change things, but on that situation you see no reason why your road over there should not receive a transportation charge as one of the best roads in that section?

6666 Mr. Kirby: I see no more reason why the Kirby Lumber Company should deny the Burrs Ferry, Browndel & Chester a division or complain of a division than they could complain

of the Santa Fe or the Southern Pacific or anybody else that did. The Kirby Lumber Company did not build this road as a plant facility, and is in no way interested.

Mr. Garwood: But you did build it.

Mr. Kirby: I have not done it yet, because I have not built to get the product.

Mr. Garwood: But you are the Kirby Lumber Company.

Mr. Kirby: Not quite. I am 51 per cent.

Mr. Garwood: Are any officers of the Kirby Lumber Company or its employees officers and employees of the Burrs Ferry, Browndel & Chester Company?

Mr. Kirby: Yes, sir.

Mr. Garwood: Who?

Mr. Kirby: Well, I am president of both concerns.

Mr. Garwood: That is one.

Mr. Kirby: Mr. Hancock is the only other one. He acts as traffic manager of the Burrs Ferry, Browndel & Chester.

Mr. Garwood: Are there any others?

Mr. Kirby: I do not recall any other.

Mr. Garwood: Who is the general attorney of the Burrs
6667 Ferry, Browndel & Chester?

Mr. Kirby: That is Judge Hornsby.

Mr. Garwood: Has he any duties in connection with the Kirby Lumber Company?

Mr. Kirby: Yes, sir, he is connected with it as well.

Mr. Garwood: What place does he hold with the Kirby Lumber Company?

Mr. Kirby: He is land and tax commissioner.

Mr. Garwood: By virtue of their official position on the Burrs Ferry, Browndel & Chester, these officers are entitled to receive, and do receive, transportation, do they not?

Mr. Kirby: From some roads, yes.

Mr. Garwood: Do you?

Mr. Kirby: Well, not necessarily for that. I am a big railroad man, too. I am a director in other systems.

Mr. Garwood: Well, that is gratifying. What other system are you also a director of?

Mr. Kirby: The Frisco and the Santa Fe, local lines down there.

Mr. Garwood: You are a director in those roads?

Mr. Kirby: Yes, sir.

6668 Mr. Garwood: And of course you do not know whether the transportation which you receive is issued to you by virtue of your directorship in these larger systems, or by virtue of your connection with the Burrs Ferry, Browndel & Chester?

Mr. Kirby: I have not looked at the passes; in fact haven't been any this year. They used to be issued to me, however, on account of my directorship in those other lines. Whether they are on account of the Burrs Ferry now I do not really recall.

Mr. Garwood: I will say there is a general complaint, as appears from the record, of the very great scarcity of passes since the first

of January. I do not know the cause. You do considerable traveling for the interests of the Kirby Lumber Company, do you not?

Mr. Kirby: Well, some.

Mr. Garwood: So do these other officers that you mentioned?

Mr. Kirby: Well, it is pretty rarely that either Hancock or Hornsby are away on business for the Kirby Lumber Company.

Mr. Garwood: Now, when you travel on these free passes, you do not undertake to disassociate yourself as a railroad director as or a railroad president from yourself as president of the Kirby Lumber Company, do you?

6669 Mr. Kirby: No, sir.

Mr. Garwood: You travel in your general capacity, and do such business as comes to you in the general course of business?

Mr. Kirby: Yes, sir; wherever I am to go, if I have any transportation over the road, I use it.

Mr. Garwood: And you assume——

Mr. Kirby: That is what it is given to me for.

Mr. Garwood: You are entirely correct. Are you a large stockholder in—was it the Frisco and Santa Fe?

Mr. Kirby: Yes.

Mr. Garwood: Are you a large stockholder in those roads?

Mr. Kirby: No, sir; I do not own any stock in either one except the qualifying shares in the corporations of which I am a director, some of the little lines down there.

Mr. Garwood: You did not acquire that as an independent investment?

Mr. Kirby: No.

Mr. Garwood: That is merely a qualifying share?

Mr. Kirby: Yes.

Mr. Garwood: Do you participate in directing the general policies of the Frisco or Santa Fe?

6670 Mr. Kirby: I have not yet.

Mr. Garwood: You do ride, however, on the transportation; that is about the extent of your participation in the operations of the Santa Fe?

Mr. Kirby: Well, yes; but I attend directors' meetings of the other concerns, though.

Mr. Garwood: Of the Burrs Ferry, Browndel & Chester?

Mr. Kirby: No, of the Frisco and vote on mortgages and things of that sort.

Mr. Garwood: You help make a quorum?

Mr. Kirby: Yes.

Mr. Garwood: What mercantile establishments are there on the Burrs Ferry, Browndel & Chester?

Mr. Kirby: Well, all of these concerns that I have mentioned maintain stores. The Aldridge Lumber Company——

Mr. Garwood: They are merely commissaries largely?

Mr. Kirby: Yes, they have a good big store there, though.

Mr. Garwood: What towns or settlements are there on it?

Mr. Kirby: There are none except around these plants; that is,

on the eleven miles completed. Of course there is a town at Rockland, but that is a mill plant too.

Mr. Garwood: Does the Burrs Ferry, Browndel & Chester
6671 road receive divisions on interstate traffic?

Mr. Kirby: Yes, sir.

Mr. Garwood: And on state traffic?

Mr. Kirby: Yes, sir.

Mr. Garwood: Does it receive divisions from the Gulf, Colorado & Santa Fe?

Mr. Kirby: I think so.

Mr. Garwood: Your divisions on the Burrs Ferry, Browndel & Chester have not been cancelled by the Santa Fe or any of its other connecting lines; I mean no notice of cancellation has been given, so far as you know?

Mr. Kirby: No, I think not.

Mr. Garwood: Do you know what those divisions are with the Burrs Ferry, Browndel & Chester?

Mr. Kirby: Well, in a general way. I would rather speak from the tariffs, but they are from one to four cents.

Mr. Garwood: Have you any higher than four cents?

Mr. Kirby: I think not.

Mr. Garwood: You think those are reasonable divisions, don't you?

Mr. Kirby: Well——

Mr. Garwood: Considering that you originate the traffic——

6672 Mr. Kirby: I guess so. I would get more if I could, but that is all the T. & N. O. will let me have.

Mr. Garwood: You at least do not think they are unreasonably high?

Mr. Kirby: No.

Mr. Garwood: You would not be willing to concede that they were, would you?

Mr. Kirby: No.

Commissioner Harlan: I understood you to say that the Kirby Lumber Company is operating no mill on that line?

Mr. Kirby: Not at all. It has never shipped a pound of freight of any kind over that line.

Commissioner Harlan: Have you or the Kirby Lumber Company any interest in the Aldridge mills on that line?

Mr. Kirby: No, sir.

Commissioner Harlan: Or in the quarry?

Mr. Kirby: No, sir.

Commissioner Harlan: Have you any interest in any industry on that line?

Mr. Kirby: No, sir.

Commissioner Harlan: When I ask you about the interest, I mean direct or indirect or equitable or otherwise.

6673 Mr. Kirby: No, no interest. We have a lot of lumber land through the territory and there is a lot of this Gallup timber

which will have to come out some time, but none has ever moved yet.

Commissioner Harlan: Have you any interest in any of those industries on that line as holder of mortgages or bonds or any financial relation at all?

Mr. Kirby: No. At one time I endorsed Mr. Aldridge's note. Mr. Aldridge is a friend of mine who owns a mill and owns the stock in the corporation, but he has since paid it off, all but a little. There may be a little balance still outstanding.

Commissioner Harlan: It did not give you any interest in the operations of his property?

Mr. Kirby: No.

Mr. Walter: You have graded the line up to your mill at Browndel?

Mr. Kirby: You mean—yes, we crossed the railroad at Browndel near our mill.

Mr. Walter: You are building up to that mill?

Mr. Kirby: No, we are not now. We would if we had the money; that is, if I had the money.

6674 Mr. Walter: You have graded the road?

Mr. Kirby: Yes.

Mr. Walter: And made all preparations to get there?

Mr. Kirby: Yes, sir.

Commissioner Harlan: What is the length of the grade?

Mr. Kirby: About 20 miles from the end of the track over to the Santa Fe.

Mr. Walter: When you get up there, you expect to ship products of your mill over that line?

Mr. Kirby: That will depend upon circumstances. If it is any benefit, yes; otherwise not.

Mr. Walter: If you can get to the markets on the same rate you get over the Frisco, over the Browndel or Santa Fe, you would ship over your line?

Mr. Kirby: No, the Santa Fe would get the business then under our contract; that is, at the same rate.

Mr. Walter: Suppose the Santa Fe does not reach it?

Mr. Kirby: It does, though.

Mr. Walter: If it does not reach the point you are going to reach, you will ship over the Browndel, Burrs Ferry & Chester?

Mr. Kirby: Yes.

6675 Mr. Walter: You do not consider that that will interfere in anywise with the railroad's collecting and receiving just and reasonable rates, whether joint or local?

Mr. Kirby: No, so far as divisions are concerned with the connecting lines.

Mr. Walter: That is purely a railroad proposition?

Mr. Kirby: Yes, sir.

Mr. Walter: And it does not affect the Kirby Lumber Company in anywise?

Mr. Kirby: It does not, because the Kirby Lumber Company does not patronize it.

Mr. Walter: I say when you get to shipping over it, it will not affect the lumber company in anywise. It is a railroad proposition?

Mr. Kirby: It is a railroad proposition, but it could affect the Kirby Lumber Company; yes, sir. It could affect the majority interest in the Kirby Lumber Company very substantially. Suppose the connecting lines would give me ten cents.

Mr. Walter: But you say a reasonable rate is one to four cents. If you only get a reasonable allowance for that service, will that affect the Kirby Lumber Company at all?

6676 Mr. Kirby: If you perform the service, you are entitled to charge for it, in my judgment.

Mr. Walter: Who?

Mr. Kirby: If the railroad company performs the service, and is a bona fide carrier, it is entitled to make rates and charge for it.

Mr. Walter: Regardless of who owns the product which goes over it?

Mr. Kirby: The only feature there, I should think, which would authorize any interference with it, would be whether the rates created a condition of inequality amounting to discrimination.

Mr. Walter: We will suppose your line has reached Browndel and you are shipping over it. Here is the Aldridge plant. You now have a blanket rate reaching all markets. If the joint rate is cut out because of the ownership of the lumber shipped from the Kirby mills, you being president of the road, what would you say as to the effect upon the Aldridge plant?

Mr. Kirby: I do not think I followed you there.

Mr. Walter: I understood you to say this morning that the only justification for a blanket rate was the equality it put every-

6677 body upon.

Mr. Kirby: Yes, sir.

Mr. Walter: The Kirby Lumber Company is shipping from Browndel.

Mr. Kirby: Yes.

Mr. Walter: And the Aldridge company is shipping from its plant.

Mr. Kirby: Yes, sir.

Mr. Walter: Both over the Burrs Ferry, Browndel & Chester. We will suppose the joint rate has been cut out solely because and only because you happen to be the president and owner of the railroad, and a majority holder of the Kirby Lumber Company. What do you say as to the effect of that action upon the Aldridge plant?

Mr. Kirby: The Aldridge plant would be at a disadvantage.

Mr. Walter: What reason can you give for that?

Mr. Kirby: The only reason you could give for that would be that the Kirby Lumber Company was getting such divisions that it was occupying an advantageous position with respect to its competitors, creating a condition of inequality in rates to markets, and therefore the conditions would have to be regulated.

6678 Mr. Walter: Then you would make the Aldridge man pay more money by that action?

Mr. Kirby: Yes. Before I got any divisions with the T. & N. O.

after building this line he had to pay the local, and they are at a disadvantage.

Mr. Walter: Are you willing to say that the Aldridge plant located on that road should be compelled to pay upon the blanket rate solely because some other shipper on that line is interested indirectly through you in the railroad company?

Mr. Kirby: Not solely for that reason; no.

Mr. Walter: Is there any justification for that action at all in your mind?

Mr. Kirby: There would not be in this case, Mr. Walter, if that is what you are inquiring about.

Mr. Walter: Yes. Supposing your mill is operating and shipping over the line.

Mr. Kirby: Mr. Aldridge ought to have the same rate to market that everybody else located as he is here, and I understand that to be involved in this inquiry.

Mr. Walter: He is located upon a line of which you are the president, and you are also the president of the Kirby Lumber
6679 Company and the majority stockholder?

Mr. Kirby: Yes.

Mr. Walter: And we will suppose that line has been completed up to Browndel and you are shipping over it. Do you say the fact he now is entitled to the joint rate would be changed by your shipping over that line?

Mr. Kirby: I doubt if it would.

Mr. Walter: Do you think there is any justification for it at all——

Mr. Kirby: I doubt if there is any. The only objection I have is where they are put in as a plant facility; I think a carrier that is doing business in good faith is entitled to compensation for that business.

Mr. Walter: You say a railroad is necessary for the lumber business?

Mr. Kirby: Yes.

Mr. Walter: Which is the more necessary, the line leading from your mill to the market or the line leading from the tree to your mill?

Mr. Kirby: There is not either one more necessary. They are both indispensible.

Mr. Walter: How can you say one is a plant facility and
6680 the other is not?

Mr. Kirby: Because one is owned and directed by the plant, just the same as the carrier which hauls the logs into the mill. It is a plant facility, without which you cannot operate. You can build your plant on the other railroad, and of course you have to have the main railroad when you ship, but if you had your plant facility in the form of your railroad and no saw mill and therefore no plant, you would not have anything to ship.

6681 Mr. Walter: It is purely a question of ownership, is it not?

Mr. Kirby: No, sir, not necessarily a question of ownership at all.

Mr. Walter: Suppose I go down there and build a railroad, and you locate your mill on it, and I haul logs for you; is that railroad a part of your plant facility?

Mr. Kirby: Not necessarily, that railroad is not, but the railroad I build to get my logs on to your railroad is a plant facility.

Mr. Walter: Would you make any difference because one man built it or another man built it?

Mr. Kirby: No, but it would make a difference as to whether one is a trunk line and the other is not, whether one is a carrier performing service to the public, and the other is a mere plant facility. There is a distinction.

Mr. Walter: Where do you draw the line?

Mr. Kirby: I draw the line—the true basis of drawing the line is the interest served.

Mr. Walter: The interest served?

Mr. Kirby: It does not make any difference how long your tram road is, or the character of its construction, if it only serves
6682 one interest, or substantially one, it is a plant facility, a private property.

Mr. Walter: Then if I should say of all the tonnage hauled over the Santa Fe rails in Louisiana 98 per cent was lumber, would you say that it made any difference, the fact it is all one commodity?

Mr. Kirby: No, the Santa Fe does not own the tonnage, and if it did, I presume it would.

Mr. Garwood: Suppose it does substantially own the tonnage?

Mr. Kirby: Well, I think probably you ought to have a commodity law in that case.

Mr. Coleman: The remark of Mr. Garwood is uncalled for——

Mr. Garwood: I withdraw the statement.

Mr. Coleman: It is not personal to the Santa Fe, but I want to call your attention to the way the examination is proceeding. When Mr. Garwood started to examine Mr. Kirby, we asked the relevancy and materiality of it, and he promised to show it. He then proceeded to show that the Santa Fe controlled Mr. Kirby, and then switched around and showed that Mr. Kirby had some kind of contract by the signing of which he controlled us absolutely. He then went
6683 on to produce a contract with Mr. Yoakum which would show that Mr. Kirby did not consider anybody owned him. Mr. Walter is going into his opinions, and it seems to me we are wasting time.

Commissioner Harlan: I have had that view myself for some time, but at the same time Mr. Kirby has expressed some opinions about this, and I assume Mr. Walter wants to test this matter.

Mr. Walter: Yes, and I do not want his opinion to stand without some examination. This morning, Mr. Kirby, you spoke of equality. You are down in Southeast Texas.

Mr. Kirby: Yes, sir.

Mr. Walter: You have a line at Beaumont.

Mr. Kirby: Yes.

Mr. Walter: Let us take a line located in Southern Arkansas, started as a common carrier, serving two or three small mills, as well

as serving the larger interests. You understand that the effect of abolishing the joint rates altogether will mean those that are chartered as common carriers must charge their local rate up to the junction point.

Mr. Kirby: Yes, sir.

Mr. Walter: Now that mill is located 200 miles nearer the
6684 market than a mill, we will say, on this line. Here is a small mill on a small road chartered as a common carrier, and it has no interest whatever in the road. All the investment is there. What do you say as to your right to get to market on the same rate he does?

Mr. Kirby: That is the blanket system——

Mr. Andrews: Just a moment——

Commissioner Harlan: Yes, we will not go further into that.

Mr. Walter: The Burrs Ferry, Browndel and Chester has in effect a Texas rate, whereby it refunds rates on logs for the lumber companies down there.

Mr. Kirby: Yes.

Mr. Walter: Do you ship anything over the Orange & Northwestern to Beaumont?

Mr. Kirby: No.

Mr. Walter: Do you ship anything over the Orange & Northwestern to your mill?

Mr. Kirby: No.

Mr. Walter: Do you furnish logs to anybody else who ships over that line?

Mr. Kirby: No. Probably what you are inquiring about, we ship logs into Beaumont over the Beaumont & Sour Lake & Western.

6685 Mr. Walter: When those logs are sawed in your mill you have it refunded, have you?

Mr. Kirby: Yes, sir, that is for the main line haul, but not for the cost of maintaining our tram roads.

Mr. Walter: What difference is there in that road which hauls logs to your mill and anybody else's road, suppose you built it?

Mr. Kirby: The difference is entirely whether it is a plant facility and necessary for the business. We have got to maintain it, and the difference is whether it produces an equality of opportunity among the manufacturers. There is no difference to the public.

Mr. Walter: In that case the refund on your freight is refunded to you for no investment in that line?

Mr. Kirby: The amount I pay the Beaumont, Sour Lake & Western is refunded. None of my cost of logging is refunded.

Mr. Walter: On the road to your mill——

Mr. Kirby: Not from the junction point to the mill.

Mr. Walter: Is not that just as much of a necessity to you in marketing your logs as any other mill?

Mr. Kirby: No, because I would go and build my mill out there.

Mr. Walter: Then it is purely the location of the mill.

6686 Mr. Kirby: Insofar as that goes.

Mr. Walter: Suppose in every case the mill is built in the

forest, and only the lumber is hauled out; does that change the situation in your view as to the justness of the situation, of divisions to the railroad?

Mr. Kirby: Yes, sir.

Mr. Walter: They are justified then if they are reasonable?

Mr. Kirby: No, I do not think they are entitled to anything any more than the man who hauls his logs out, because the lumber is cheaper tonnage and easier to handle.

Mr. Walter: In calculating the cost of these operations of your road and spurs, what did you take into consideration?

Mr. Kirby: Track laying, maintenance of track and train expense; the whole expense.

Mr. Walter: Did you calculate in that the material you had to carry in order to lay these roads?

Mr. Kirby: The cost of material went in, of course.

Mr. Walter: It is not all down at all times, is it?

Mr. Kirby: Well, the material is not in, this is an operating cost, and not capital account.

Mr. Walter: This is purely the cost of laying the rails and
6687 hauling the logs over them?

Mr. Kirby: It is the operating cost. We charge the rails in the capital account. That would be in another account all together.

Mr. Walter: Does it go into the cost of moving your forest products?

Mr. Kirby: Not the value of the rails.

Mr. Walter: You have an average movement, I think you said, of 351,781 tons of forest products, and that the operating cost of that was $399,000, over one dollar a ton for the mere cost of operation.

Mr. Kirby: Yes, sir.

Mr. Walter: What was the average haul on those logs?

Mr. Kirby: Well, you could tell by looking at that table. I should say about 12 or 15 miles.

Mr. Walter: Then the average cost of transporting the logs was——

Mr. Kirby: It might be 20 miles.

Mr. Walter: Why do you increase it from 12 to 20?

Mr. Kirby: I was thinking about the length of the tram roads, because some of the tram roads including the spur line and
6688 the logs come from the spurs as well as from the main line, and we have one forty miles long.

Mr. Walter: It is a good deal more expensive to operate the short lines than the main line, is it not, that is the trunk line, per ton? It costs a good deal more to transport a ton over one of these short lines than over the main line?

Mr. Kirby: I do not know that the transportation is greater, but the——

Mr. Walter: Well, take all expenses then.

Mr. Kirby: The cost of laying those tracks, of course you do not construct them as substantially as you do your main line, but that is very frequent and constant, so it makes your terminal cost of that

kind much higher according to the movement per foot or yard that your main line cost.

Mr. Walter: And for the same distance a short line would be entitled to a greater compensation than would the main line for a similar distance?

Mr. Kirby: If you are going to absorb the cost, yes.

Mr. Walter: That is part of the business of a railroad, to take care of the cost out of its rates.

Mr. Kirby: No,I think not.

6689 Mr. Marble: These figures concerning which you have been questioned, was that three hundred thousand and some odd tons of lumber or logs?

Mr. Walter: Logs and forest products generally, whatever he hauled.

Mr. Kirby: Yes, ties and everything.

Mr. Marble: That is the weight of the inbound shipments of logs to your mill?

Mr. Kirby: Yes.

Mr. Marble: And the outbound shipments of lumber would be about how many thousand tons?

Mr. Andrews: Those are what are handled on the tram roads of the Kirby Lumber Company up to the mill.

Mr. Walter: And from the mill out to the trunk line road.

Mr. Andrews: No.

Mr. Walter: Does not that include the tonnage you hauled from Call to Call Junction?

Mr. Kirby: No.

Mr. Walter: How much was that tonnage?

Mr. Kirby: I do not remember the figures there. It is the number of cars shipped last year from Call, and most of them passed over the Santa Fe.

6690 Mr. Walter: Did this movement include the cost of that tonnage, the $399,000?

Mr. Kirby: No, this is logging cost there, and this is a mill operation, moving the lumber out there.

Mr. Walter: Why did you make a difference?

Mr. Kirby: One is one thing, and one another. You keep your mill and logging account separately.

Mr. Walter: That is, you would say the movement of the lumber was not a part of your plant facilities then?

Mr. Kirby: We have no facilities of that kind for moving lumber.

Mr. Walter: Don't you haul lumber sometimes from Call to Call Junction?

Mr. Kirby: We do, with the Santa Fe Railroad.

Mr. Walter: With your own engines?

Mr. Kirby: Yes, sir.

Mr. Walter: But you do not consider that part of your plant facility?

Mr. Kirby: It is not our plant facility.

Mr. Walter: Well, the movement?

Mr. Kirby: Our mill is on the Santa Fe Railroad.

Mr. Walter: You haul it two miles?

6691 Mr. Kirby: I perform a service over the Santa Fe Railroad.

Mr. Walter: Why didn't you include that in the cost of operating the railroad part of your mill?

Mr. Kirby: That is a mill cost.

Mr. Walter: That is a mill cost?

Mr. Kirby: Yes, sir.

Mr. Walter: Why should the movement of the finished material out be a part of the mill cost, when the movement of the logs in is considered otherwise as a railroad cost?

Mr. Kirby: Well, one is a movement of logs, and the other of lumber. In your mill cost you are making lumber and putting it in the market, and in the railroad cost you are getting the logs to the mill.

Mr. Walter: Then you make no difference in the cost of unloading——

Mr. Kirby: I do not understand.

Mr. Walter: What is the difference?

Mr. Kirby: One is logs, and the other is lumber. It may be two by four, or something else.

Mr. Walter: That is all the difference you know?

Mr. Kirby: There may be a little else.

6692 Mr. Walter: I wanted to know why you had logs in here and did not count the lumber cost of moving it by your engine.

Mr. Cowan: He already explained it fully, that it is a matter of accounting of the mill, that they kept it that way. Whether there is any good reason or not, they kept it. It was on the logging side of the account.

Mr. Walter: Then the movement of the lumber is not kept separately from the cutting of logs in the mill and drying of them and planing them?

Mr. Kirby: All the movement of lumber—there is no movement of lumber except loading it in the cars. It is part of your mill cost and loading expense.

Mr. Walter: I asked you if your engine did not take those loaded cars and move them.

Mr. Kirby: They certainly do.

Mr. Walter: I want to ask you why you do not include in your railroad operations the movement of the lumber as well as the logs.

Mr. Kirby: Because it is no part of the logging. I have no railroad operation. My accounts reflect my logging or my mill manufacture. I have no other kind of account.

Mr. Walter: Where would we find this account?

6693 Mr. Kirby: In the mill account.

Commissioner Harlan: I see the point. Counsel has a definite thought in his mind and wants to work it out of the witness. Can you answer the question?

Mr. Kirby: I cannot, except that it is a mere accounting matter. We have no purpose in it.

Commissioner Harlan: Are there any other questions?

Mr. Walter: Now you spoke of the $397,000 as the cost of the spurs and bringing your logs over the main line to the mill.

Mr. Kirby: Yes.

Mr. Walter: How much of that cost was spurs only, and how much main line?

Mr Kirby: We have not made up those figures. I could not tell you.

Mr. Walter: You have been in the business many years. What is your best judgment?

Mr. Kirby: Estimating it on the percentage basis, I should say the main line cost was probably thirty per cent of the total; that is just a guess. Main line and train service, that would include train service.

Mr. Walter: And by the spur service you mean only the
6694 small spurs which run out and pick up the log and bring it to the main line, including the team skidder and loader, and all that sort of thing?

Mr. Kirby: Yes, sir, it would not exceed that. That would be a very liberal estimate. That would be over 60 cents per thousand, and it would not cost that.

Mr. Walter: How much of your total investment is railroad property, and how much mill property?

Mr. Andrews: If the Commission please, I understood that that question was passed on almost directly this morning.

Commissioner Harlan: I hardly understood that the question put now was put this morning.

Mr. Andrews: The immediate question was not, but the question as to the value of his investment in milling interests was, and was the subject of discussion. We object to it, as to what his mills cost him.

Commissioner Harlan: The objection is sustained.

Mr. Walter: I think it is but fair to show that every one of these short lines that has been mentioned at all in any of these proceedings, leaving out of course the Burrs Ferry, Browndel, and Chester, have given every particle of information that has been asked for.

6695 Commissioner Harlan: I do not understand that question has been asked of any witness since the hearing started.

Mr. Walter: Of all of them.

Commissioner Harlan: That question as asked is, what is the value of the investment including the mill and railroad.

Mr. Walter: I asked him how much of it is railroad.

Commissioner Harlan: There is no objection to asking him how much is railroad cost, but you included the mill, and that is what counsel objected to.

Mr. Walter: Very well, let us have that railroad valuation.

Mr. Kirby: The valuation shown on our books, which is a good deal less than the cost, but that is the valuation placed on it by Price, Waterhouse & Company, is $1,503,861.30.

Mr. Walter: Does that include the equipment?
Mr. Kirby: Yes, sir.
Mr. Walter: And right of way?
Mr. Kirby: Right of way, and everything. We do not obtain any permanent right of way.
Mr. Walter: How much did it cost?
Mr. Kirby: I have not the figures, but more than that.
6696 Mr. Walter: How much?
Mr. Kirby: I could not tell you.
Mr. Walter: Just an estimate.
Commissioner Harlan: Can you give any impression on that question?
Mr. Kirby: I would not want to give any impression. We have increased our book value, but our book cost was less than the actual cost. We have written off since then 7½ per cent for depreciation.
Mr. Coleman: I would like to ask whether Mr. Kirby will be available during all the present hearing.
Mr. Kirby: Yes, I will be here.
Mr. Walter: You spoke a while ago about your company's inability to get into Galveston because of some division of the rate. Will you kindly state that again.
Mr. Kirby: No, I was talking about a specific instance.
Mr. Walter: Give us that specific instance.
Mr. Kirby: When the causeway down there was buying its stuff, the material for its construction, we bid on that business, and we found the condition to be such as I stated this morning.
Mr. Walter: What was it?
Mr. Kirby: Our rate was eight cents, and the Lake Charles
6697 rate to begin with was only six cents, and that is to meet water competition, and we do not complain of it, but when you take four cents division out of it, the Southern Pacific only gets two cents for hauling the stuff to Galveston.
Mr. Walter: Who was it gets four cents?
Mr. Kirby: The log mill company.
Mr. Walter: You are mistaken about that.
Mr. Davis: It is two cents.
Mr. Walter: Two cents is the correct division.
Mr. Davis: We get two cents regardless of the haul.
Mr. Marble: Going to this contract with the Santa Fe company, which has as one of its features, an agreement by the Kirby Lumber Company for exclusive routing when the rates are the same, you are still acting under that contract?
Mr. Kirby: Yes, sir.
Mr. Marble: That was a consideration on your part in that contract, that promise to the Santa Fe?
Mr. Kirby: Yes, sir.
Mr. Marble: What did it give you in return for that?
Mr. Kirby: Well, I do not know of anything that it gave actually, but the Santa Fe had these lands, and I wanted to buy them, and I made an option contract with them, and have an option con-
6698 tinuing as long as this routing exists, so that may be a consideration or not; but I wanted that timber for my mills when I needed to use it.

Mr. Marble: Could you have secured the option without that agreement?

Mr. Kirby: I doubt if I could.

Mr. Marble: Could you have secured the option at a higher rate of interest without that agreement?

Mr. Kirby: I very much doubt it.

Mr. Marble: Was there a concession to you in the rate of interest?

Mr. Kirby: I think not. They have loaned other people money for less.

Mr. Marble: Without such agreement for routing?

Mr. Kirby: I do not know what their agreements are.

Mr. Marble: You have stated that the interest on the amount loaned was five per cent?

Mr. Kirby: Yes.

Mr. Marble: And on this other amount——

Mr. Kirby: That is five per cent.

Mr. Marble: No, on the $500,000 you borrowed, you paid seven per cent?

6699 Mr. Kirby: Yes.

Mr. Marble: Why two per cent difference in the interest given on the two transactions?

Mr. Kirby: I do not know; that is what they charged for the money, and I have always had to pay what the other fellow charged me.

Mr. Marble: Was there an agreement for exclusive routing on the seven per cent contract?

Mr. Kirby: Well, my recollection is, Mr. Marble, that it is all involved, that the mortgage—no, I believe not. I was going to say that the mortgage related also to the routing, but possibly it does not.

Mr. Marble: Now, Mr. Kirby, you of course recognize that as far back as the history of secret or discriminatory rates or arrangement goes, there is constantly recurring this feature of a contract for exclusive routing of tonnage, and that is a valuable thing to the railroad company; it has always been, for which it usually gave something of value, and I want you to tell us precisely what you think about this contract. You know the suspicions about this contract which have been voiced throughout this hearing by other parties.

6700 Mr. Kirby: Yes. I do not see anything in the world objectionable to this feature, and insofar as routing my tonnage over the Santa Fe was concerned, I probably would have done so, even without any option contract or any other kind of contract, or anything else involved. The Santa Fe, however, assures to itself the performance on my part of the observation of the routing clause by holding these lands in the form of an option instead of selling them to me straight out on mortgage for that length of time.

Mr. Marble: That is to say the Santa Fe was the absolute owner of these lands to start with.

Mr. Kirby: Well, not to start with. They bought them under options which I held. They bought them from us, they became the owner.

Mr. Marble: There was a time when the Santa Fe was the owner?

Mr. Kirby: Yes, sir, and is now.

Mr. Marble: And is now?

Mr. Kirby: Yes, sir.

Mr. Marble: And your option is a privilege of buying at some time in the future?

Mr. Kirby: Yes.

6701 Mr. Marble: In the meantime are you cutting off of those lands?

Mr. Kirby: I cut some timber in my logging operations, if I come to a tract of land that would be left, anticipating that at some time I will exercise that option and that my tram road will be gone from there and the timber will be left, I cut it, and I pay $5.00 a thousand plus five per cent from the time these contracts were made, which at the present time is five and a quarter per cent. Next year it will be five and a half per cent. I pay for the stumpage cut from that land, and I have the option to cut as much or as little as I please under my option.

Mr. Marble: When you buy that timber in that way on the stumpage or when you shall finally exercise your option to buy the land itself your understanding is that the Santa Fe has reserved the right to control the routing of the traffic.

Mr. Kirby: No, sir.

Mr. Marble: On that land?

Mr. Kirby: There is no obligation as to when that shall be cut, but if it is cut during the period of the option of course it would apply, if it is in the proper locality because the Santa Fe tonnage contract does not apply to all our mills, and then the

6702 Santa Fe tonnage contract does not relate specially to this timber except as to—to illustrate what I mean, that Kountze land of probably 180,000 acres is largely on the Southern Pacific and not on the Santa Fe. I probably will not cut any quantity of that timber under my option contract until my routing contract has expired. For instance, the routing in relation to that tract only exists for a period of eight years, and in that period I will probably cut none of that timber of any consequence, so when I do buy that timber I am absolutely free to ship it any way I please.

Mr. Marble: Do you consider that you secured any concession on the amount of the purchase price of these lands by reason of making that stipulation as to the routing?

Mr. Kirby: No, sir, I am to pay them what is cost them, and they bought it through me.

Mr. Andrews: In all substantial respects, it is a loan?

Mr. Kirby: Well, it does not take that form, but that is the nature of it, with five per cent and the taxes and care and every charge connected with the carrying of the property.

Commissioner Harlan: So long as you do not avail yourself

6703 of the option, the five per cent is running and the Santa Fe controls the routing, if the option should become a purchase tomorrow, you would be released from their right to routing?

Mr. Kirby: No, they would not let me declare it tomorrow, under the contract. They would have the option of making me wait, and route the tonnage, so much as they had contracted for. They would have the option of making me wait for that period without declaring the option.

Mr. Garwood: Is that solely with reference to the Kountze land or the land——

Mr. Kirby: That is with reference to both bodies; that is the Chapman lands and the Gallup lands, except the Chapman lands are involved in the five year contract from July, 1909, and the Gallup lands for a ten year period.

Mr. Marble: Does it come to this, then, that if these transfers of these lands by you to the Santa Fe and the giving of the option, as I understand was the suggestion, was merely by way of securing a loan of money to you, that the Santa Fe Railroad is financing your operations there?

Mr. Kirby: Not my operations, but in so far as this particular timber tract, you might say they are doing that. They own it and they gave me an option to buy it in the future, and they
6704 bought it at my suggestion and at my request.

Mr. Marble: It might be about as an ordinary deed in trust, such as banks so frequently make when making loans, your transfer to them with the option to purchase back.

Mr. Kirby: We try to relieve them of that future, because there is no obligation on our part to buy it back.

Mr. Marble: You will buy it back or else lose your loan as an ordinary borrower on land would?

Mr. Kirby: I borrowed the value of it.

Mr. Marble: You borrowed the full value of it?

Mr. Kirby: Practically so.

Mr. Marble: Did you get any more than the full value in consideration of this agreement as to routing?

Mr. Kirby: No.

Mr. Marble: You think you struck that squarely.

Mr. Kirby: It is the substantial market value of the land. Of course the expert valued it some higher. I think there is probably twenty-five per cent difference between the expert's valuation of the stumpage, as he put in a lot of oak stumpage which we did not utilize.

Mr. Marble: What is the difference in the element of
6705 these two transactions which makes in your opinion the difference of the two rates of interest, between five and seven per cent?

Mr. Kirby: In one case the loan, if you call it a loan, is secured by timber land where the security is unquestioned and the title put absolutely in the lender or buyer, if you may call it. In the other case it is a mortgage by an industrial enterprise upon general assets that a banker or anybody else would not regard as favorable or in no way as substantial as the other. It is a difference in security, rather than otherwise.

Mr. Marble: Of course I have no judgment, but you know abso-

lutely about this thing and other gentlemen in the room will perhaps have their suggestions to make. It is your judgment, then, that the two rates of interest are not to be explained by the routing contract which was made at the time of the securing of the five per cent interest?

Mr. Kirby: No, and the securing of the other, they are all contemporaneous transactions; they certainly would not charge me a high rate of interest because I wanted to do them a favor in giving them the tonnage.

6706 Mr. Marble: Have you any other contracts with the Santa Fe Railroad other than those referred to here, which would affect the consideration of this problem?

Mr. Kirby: No, sir. The only other contract I have with them at all is their hewn tie contract which I mentioned this morning, and that is entirely on a percentage of profit basis. We get out the ties for them at the cheapest price we can, and they pay us for the use of our facilities and so forth fifteen per cent, or something like that. Fifteen per cent it is on the cost of the tie. It is supposed to represent our expense, profit and all that sort of thing.

Mr. Marble: Ties for the use of the Santa Fe Company?

Mr. Kirby: Yes.

Mr. Marble: Does the Santa Fe merchandise those ties at all?

Mr. Kirby: No, they treat them at their treating plant at Somerville. I suppose they sell their connections once in a while. I have heard of their selling their connections once in a while out of their treating plant up there. I think I have heard of them selling the Milwaukee and perhaps the Great Western, and they go out themselves and buy ties. I have heard of their buying ties at the creosoting plant at Texarkana on the T. & P.

6707 Mr. Marble: Does the Santa Fe Railway own any stock of the Kirby Lumber Company?

Mr. Kirby: Not a share.

Mr. Marble: Does the Kirby Lumber Company own any Santa Fe Railway Company stock?

Mr. Kirby: No, not a share.

Mr. Marble: Or any of its subsidiary corporations?

Mr. Kirby; No, not a share.

Mr. Marble: Has the Santa Fe any contingent interest of any sort in the profits of your lumber companies?

Mr. Kirby: Not a cent, in any form whatever.

Mr. Marble: Does it make any difference to the Santa Fe except in the freight money it receives for transportation whether or not you sell lumber next month?

Mr. Kirby: It does not.

Mr. Marble: Is this interest money to be at all affected in amount by the amount of lumber merchandised and shipped by you?

Mr. Kirby: No, sir, no obligation on my part to run any particular mill, but whatever material I may cut in certain localities must be delivered at points on the Santa Fe.

6708 Mr. Marble: Could you at all change the amount of that interest by shipping over some other line than the Santa Fe?

Mr. Kirby: No.

Mr. Marble: Would you cause your interest to increase if you did?

Mr. Kirby: I do not think so.

Mr. Marble: Would you cause your loan to fall due by making a breach of the contract in that respect?

Mr. Kirby: Well, I would forfeit the right to buy the land under the option agreement by breaching the contract.

Mr. Marble: That would be the penalty?

Mr. Kirby: That would be the penalty.

Mr. Marble: That is to say, then, you would cause a forfeiture of your right to pay the loan which the Santa Fe made you on this deed of trust?

Mr. Kirby: Yes, sir.

Mr. Marble: And your equity in the contract would be forfeited?

Mr. Kirby: Yes.

Mr. Marble: And that would be your penalty for breaking the contract?

Mr. Kirby: Yes.

Mr. Andrews: I do not know which you refer to when you
6709 say "deed of trust." Do you mean the $500,000, the Chapman transaction?

Mr. Marble: I mean the option agreement where you transferred the land.

Mr. Andrews: You said this deed of trust, and that was the only deed of trust given.

Mr. Marble: The other I had understood was practically a deed of trust, that is, that Mr. Kirby or Mr. Kirby's company owned the land and transferred it to the Santa Fe for its value and then took an option to repurchase at five per cent at some time in the future, and that that was really a loan, rather than a purchase for the interest of the Santa Fe, I understood you to say.

Mr. Andrews: I did not say it was a loan. I said it had the supposed effect of a loan. I merely wanted to distinguish the question as applying to the $500,000 loan about which you had asked him many questions concerning the interest rate.

Mr. Marble: That was at seven per cent.

Mr. Andrews: There is no forfeiture in that for the failure to do or otherwise, and nothing attached to it except the ordinary conditions of a mortgage of that class.

6710 Mr. Marble: I understand the thing, but in order that the record may be entirely clear, what you meant to say was that this option to buy certain lands which you transferred to the Santa Fe for value, your option to buy at five per cent is what you would lose if you violated this contract in regard to the routing?

Mr. Kirby: Yes, sir.

Mr. Marble: Then there would be no forfeiture under your contract by which you borrowed the $500,000 at seven per cent?

Mr. Kirby: No.

Mr. Marble: You have been asked a great many questions about the effect of Texas laws and rights of people operating under them,

and while hardly proper, I will pursue the thing one step further. You have testified that the Texas laws will not allow a road which has incorporated as a common carrier to take up its track without permission.

Mr. Kirby: Without the legislative permission, yes, sir.

Mr. Marble: Without legislative permission?

Mr. Kirby: Yes, sir.

Mr. Marble: Do the Texas laws require common carriers which are really such to qualify and take the obligations of the law?

6711 Mr. Kirby: I think not.

Mr. Garwood: Yes, they do.

Mr. Andrews: I do not understand what you mean by qualify and take the obligations of the law.

Mr. Kirby: I suppose something like taking an oath of office.

Mr. Marble: As I understood Mr. Kirby's testimony, he said one reason he did not incorporate as a common carrier was that if he did so he would incur certain obligations to continue in business. I was asking him simply if there is an obligation on his part if he is such common carrier to so qualify and not stay outside the law?

Mr. Andrews: There is nothing in the statute on the subject. I can give you a succinct history of the organization if you wish, but there is nothing in the statute of that character.

Mr. Marble: That is really all I care for. I understand your mill at Call is on the Frisco.

Mr. Kirby: It is on both, but it is not on the main line of the Santa Fe. The Santa Fe has a spur two miles long running into the mill.

Mr. Marble: So you make delivery to the Santa Fe at Call?

6712 Mr. Kirby: At Call Junction.

Mr. Marble: How far is that from Call?

Mr. Kirby: Two miles.

Mr. Marble: Where is your mill?

Mr. Kirby: At Call.

Mr. Marble: Does the Santa Fe come to the mill?

Mr. Kirby: No.

Mr. Marble: They require you to go to the junction?

Mr. Kirby: We perform that service. We have a line of road into the mill, but we maintain it and do the switching over it of empties and loads.

Commissioner Harlan: In two cases he does that, I understand.

Mr. Kirby: Call is the only place we do that except the planing mill at Bronson; that is, the planing mill service only on a switch, but this is a short line service over the Santa Fe's own rails in addition to doing the switching.

Mr. Walter: Who maintains that two miles?

Mr. Kirby: The Kirby Lumber Company.

Mr. Marble: This cost of operating the logging road which has been testified to, $399,000, do you include in that the cost of operating the skidder?

6713 Mr. Kirby: Yes.

Mr. Marble: The cost of *m*aking the log from the stump to the car?

Mr. Kirby: Yes, sir; that is part of the loading process.

Mr. Andrews: Here are the figures made up by the Interstate Commerce Commission's experts from which that is a summary, if you wish to look over them.

Mr. Hancock: This is an investigation of industrial lines, and this is the totals of the Interstate Commerce Commission.

Mr. Marble: We have the originals.

Mr. Andrews: Yes, and they will show you in detail what is taken into consideration.

Mr. Marble: For the sake of the record at this point, does it include the cost of cutting the tree and trimming up the log?

Mr. Kirby: To my understanding of the figures; I do not understand it includes that.

Mr. Marble: When you first opened your mill, was there timber immediately adjacent to the mill site which you cut?

Mr. Kirby: Yes, sir; some of the mills I am operating now were built long before the Kirby Lumber Company was ever
6714 dreamed of, like at Call, for instance, it was built some years before the Kirby Lumber Company was organized. But when we build mills ourselves in nearly every instance we started right out in the forest and worked the mill right in the forest.

Mr. Marble: In that instance would the skidder work at the mill in the first instance?

Mr. Kirby: No, we would pull it in with teams or mules.

Mr. Marble: I think that is all.

Mr. Walter: You said you were to pay the Santa Fe $5.00 a thousand stumpage. Now how long is that to continue?

Mr. Kirby: Until the option contract is declared.

Mr. Walter: Suppose you do not declare that option, can you go ahead cutting that timber and paying them the stumpage charge?

Mr. Kirby: Not after I waive the option, after the option period has expired.

Mr. Walter: When does that expire?

Mr. Kirby: On the Chapman lumber September 1st, 1914 and the Gallup timber September 1st, 1919.

Mr. Walter: Suppose you do not do anything whatever and keep on cutting the timber after September 1st, 1914, what would happen on the Chapman lumber?

6715 Mr. Kirby: If I kept on cutting the lumber?

Mr. Walter: Yes.

Mr. Kirby: I might cut enough at $5.00 a thousand to pay the whole $3,000,000 and then I would have enough for what is left.

Mr. Walter: So the $5.00 is applied on the purchase price?

Mr. Kirby: Yes, sir.

Mr. Walter: Up to that time, September, 1914, do you pay any interest unless you take over this property?

Mr. Kirby: No.

Commissioner Harlan: You pay interest on what you cut?

Mr. Kirby: No, we pay for it accordingly as we cut it, $5.00 for the first year, five and a quarter for the second year and five and a half for the third.

Commissioner Harlan: That would be five per cent.

Mr. Kirby: It would be for any period five per cent, but I pay it on the basis of the present value, paying $5.00 and paying five per cent interest.

Mr. Walter: So the only interest you are paying is that on which you are cutting the timber?

Mr. Kirby: No, I have to pay it all in the end.

6716 Mr. Walter: If you take it?

Mr. Kirby: If I take it.

Mr. Walter: But if not, it is simply a contract for stumpage?

Mr. Kirby: That is all it is, yes, sir.

Mr. Walter: Yes.

Mr. Kirby: But it is a contract for land as well.

Mr. Walter: You are buying not only the timber, but the land as you cut the trees?

Mr. Kirby: But the interest I have in it is the tree.

Mr. Walter: And the railroad has simply carried that for you. When you buy stumpage outside down there, what do you pay?

Mr. Kirby: I have paid different prices. Most of my consumption now is on Houston Oil Company's timber, and I pay $5.00.

Mr. Walter: Is that a pretty fair price?

Mr. Kirby: I think so; yes, sir. That is about the market value of the stuff.

Mr. Walter: And that is all increasing in value every year or not?

Mr. Kirby: I think so.

6717 Mr. Walter: Who is paying taxes on this timber?

Mr. Kirby: Which timber?

Mr. Walter: The timber you cut this year, who paid taxes on it last?

Mr. Kirby: The Houston Oil Company.

Mr. Walter: The Santa Fe timber, I mean.

Mr. Kirby: They pay it, and I will have to pay it when I buy it.

Mr. Walter: Suppose you do not buy it?

Mr. Kirby: Well, they pay it.

Mr. Walter: Up to 1919 you can hold the Gallup timber?

Mr. Kirby: Yes, sir.

Mr. Walter: On all you have not cut up to 1919 the Santa Fe has carried it and paid taxes and been without the use of the money?

Mr. Kirby: That is right.

Mr. Marble: Is that to be compounded or do you pay annually?

Mr. Kirby: Compounded.

Mr. Marble: But you do not pay it annually.

Mr. Kirby: I do not pay it annually until I declare the option. Of course I would not pay the interest then.

6718 Mr. Walter: But you pay the purchase price for the stumpage, I understand, which is figured to include interest?

Mr. Kirby: Yes.

Mr. Walter: You can violate that contract at any time and there is no penalty attached other than that you cannot take the property?

Mr. Kirby: Yes, sir, that is all.

Mr. Garwood: Do not the ordinary industrial bonds in that section of the country usually bear at least six per cent, and can you place them without pretty liberal discount, selling them, say, from 85 to 95 on the dollar?

Mr. Kirby: It depends entirely on the condition of the times. Three or four years ago five per cent was a reasonable interest rate for a lumberman to pay. Today he might have to pay ten per cent. I do not know. We are not in very good credit. We are not making money.

Mr. Garwood: There are not many of them less than six per cent that you know of?

Mr. Kirby: No, I think that is a pretty fair rate.

Mr. Garwood: And bonds usually have to be discounted some?

Mr. Kirby: Well, yes, the seller of the bonds usually discounts them, but the ultimate buyer usually pays par and
6719 sometimes a little more.

Mr. Garwood: You buy through the country adjacent to your territory other small tracts at considerably less than $5.00 do you not, from time to time?

Mr. Kirby: Sometimes; yes.

Mr. Garwood: You buy them as low as $2.00?

Mr. Kirby: Sometimes.

Mr. Garwood: Well, right often, don't you?

Mr. Kirby: No, it is not often. We pay, as a rule, around $3.00.

Mr. Garwood: $3.00 is a pretty fair average price for the small tracts?

Mr. Kirby: Yes. In our case we have not bought much because we have not had the means. We try to accommodate a neighborly farmer down there who has a little tract of land, and when our tram road goes in, at his price, and that is usually the small farmer's holding price, $2.50 or $3.00.

Mr. Garwood: You sometimes get it as low as $2.00?

Mr. Kirby: Yes. A man can go out in that forest country and buy little tracts here and there at a dollar and a half where the parties want to realize on it and want to sell.

Mr. Andrews: They are very small and very thin?

6720 Mr. Kirby: Yes.

Mr. Coleman: The Beaumont, Sour Lake & Western is a Frisco road?

Mr. Kirby: Yes.

Mr. Coleman: That is all.

Commissioner Harlan: We will adjourn at this point.

Mr. Cowan: Before your Honor adjourns, I assume your Honor is going to leave; I do not know, but if that be the case, I want to call attention to something which was remarked at New Orleans before we opened the hearing, in regard to the use of the record of facts obtained by the Examiner of Accounts and perhaps of the Commission on those subjects. What is expected may be done in regard to the use of those records? It was mentioned there, and it was left indefinite, and I do not know and would like to inquire.

Commissioner Harlan: We have made a point of bringing out in

this record substantially all the facts that we have in our own records with respect to the roads that came before us.

Mr. Cowan: Well, I thought so.

Commissioner Harlan: And in some respects our own records have been corrected by the testimony, so that this record is perhaps
6721 a more accurate record in respect to the roads which came before us than our own records.

Mr. Cowan: I am just inquiring.

Commissioner Harlan: There have been additions to equipment, mileage and in other ways, so our record is somewhat out of date and is corrected by this record.

Mr. Cowan: I just wanted to inquire.

Commissioner Harlan: I understand the hotel will put another room at our service tomorrow and we will be notified. We will adjourn to 9:30 tomorrow morning.

Mr. Garwood: I assume the several contracts inquired about, about which Mr. Kirby has testified, will be filed in the record, or copies of them? Will they?

Mr. Marble: I have not heard that statement made. You had better pursue it a little further.

Mr. Cowan: No, the Commission will have to require it if they do want them.

Commissioner Harlan: We will take that up tomorrow morning.

Whereupon, at 5:30 P. M. an adjournment was taken to Tuesday, January 31, 1911, at 9:30 A. M.

6722 CHICAGO, ILL., *January* 31, 1911.

Met pursuant to adjournment at 9:30 A. M.

Present: Parties as before.

J. H. KIRBY was recalled as a witness, and having been previously sworn, testified as follows:

Commissioner Harlan: Have you any questions of this witness, Mr. Marble?

Mr. Marble: Just a few.

Mr. Garwood: Just one question before you begin.

Mr. Marble: I will yield to Mr. Garwood.

Mr. Garwood: I would like to ask if it was not a part of your general plan in the acquisition of these large tracts of land to control as far as possible the pine lands of southeast Texas and southwestern Louisiana and surround and isolate and thereby control the tracts held in small ownership that would be surrounded by your lands and have no outlet except through or over your lands, and by your facilities?

Mr. Kirby: In my original purchases, when I had a little bit of money and wanted to cover a big territory, that was long before the Kirby Lumber Company was organized or thought of, I made my purchases with a view of building out. I would isolate a
6723 piece of timber if I could; that is, I would buy between them and transportation, and try to hold it so when I got some

money I could buy that too. But that had no relation to the Kirby Lumber Company, because that company did not buy any lands upon its own account of any consequence, and it did not have relation to the two companies organized at the same time, the Houston Oil Company and the Kirby Lumber Company, because there is more timber in Louisiana on the Louisiana side of the Sabine River than on the Texas side, and we bought none of that, or only a little tract.

Mr. Garwood: And that being your purpose——

Mr. Cowan: He has not said it was his purpose in the sense you put it.

Mr. Garwood: His answer stands for itself, and my question will not change his answer.

Mr. Cowan: It will not, when I call attention to it.

Mr. Garwood: That also was the effect.

Mr. Kirby: It never produced any effect like that of a control. The question you asked was control.

Mr. Garwood: Well, the natural effect of surrounding and isolating smaller ownerships and smaller tracts——

Mr. Kirby: Sometimes it would have that effect. The
6724 tracts we sought to isolate were not necessarily small ones, that would render them less attractive—I know why your question was asked, because I remembered that allegation in the pleading of the so-called strategic value of the so-called Kirby lands that went to the Houston Oil Company.

Mr. Garwood: Yes.

Mr. Kirby: Those were lands that I had acquired from ten years to one year prior to the organization of the Kirby Lumber Company and prior to its inception. Those were lands bought largely for myself and the Boston concerns I testified to yesterday, and purchased beginning in 1887.

Mr. Garwood: To put it in your own words in the pleading to which you refer: "That said Kirby controlled the opportunity of gathering into one body under one ownership the yellow pine timber and oil lands of southeast Texas and southwestern Louisiana, and that the lands so owned by said Kirby, his co-partnerships and corporations, were so located that they isolated and controlled large bodies of similar land." That is the idea that you now convey.

Mr. Kirby: Well, that is the allegation of the lawyers. Of course it had that effect to an extent, that is, the original purchases I made between 1887 and 1900, that 13 years, had that effect in
6725 instances.

Mr. Garwood: You say that is the allegation of the lawyers. That is practically your statement now, is it not?

Mr. Kirby: Yes, except to the extent of the control. It only controlled what we owned.

Mr. Garwood: That is the statement as your lawyers put it in your answer signed by yourself personally as well as by the Kirby Lumber Company, being the answer in equity——

Mr. Kirby: Yes, there is no misunderstanding on that between us.

Mr. Cowan: Mr. Garwood has got the book before him. I do not

think that Mr. Garwood intends to have Mr. Kirby state something that is not true.

Mr. Garwood: I could not do that if I had any such desire, which I certainly have not.

Mr. Cowan: You said yesterday that Mr. Kirby had sworn to this answer. Now, I would like for you to look there and state to the Court whether it is true or not.

Mr. Garwood: I said that on the general proposition that answers in equity are sworn to, and I state now that it is my purpose——

Mr. Cowan: That is a mistake.

6726 Mr. Garwood: That it is my purpose to introduce the answer. It was attested by the secretary. In turning it over rapidly yesterday I——

Commissioner Harlan: The answer will speak for itself. Are there any further questions?

Mr. Garwood: No.

Mr. Cowan: But when he offers in evidence a statement of fact in an answer, coupled with the statement that the answer was signed and sworn to by the witness, it is very important for me to point out in the record that the thing did not happen.

Commissioner Harlan: I do not think we will spend any more time on it.

Mr. Cowan: I think we are entitled to have it go in the record.

Commissioner Harlan: My recollection is there is a very respectable authority to the effect that pleadings are not receivable as admissions against interest anyway. I may be wrong about it.

Mr. Cowan: There is a conflict of authority, but if they are sworn to, it is a very different thing.

Commissioner Harlan: We will work it out some way and

6727 see what the effect of it is. Have you some questions, Mr. Marble?

Mr. Marble: Going to this contract between you and the Santa Fe Railroad Company, the contract under which you have the option to purchase the timber lands which you had at a previous time transferred to the Santa Fe Railway Company and the feature of the contract by which you cut trees from time to time as you come to them in your lumbering operations, what is the price you pay for stumpage?

Mr. Kirby: $5.00 for the first year; that is, the year ending June 30, 1910; $5.25 for the second year; that is, the year ending June 30, 1911, and then it would be $5.50, adding 25 cents each year, being substantially five per cent on $5.00.

Mr. Marble: The point I want to come to is this: Will that enable you to cut over these lands and take the timber at a price different from that expressed in your option to purchase?

Mr. Kirby: No, sir; these are mere payments on account of the option. If I should not declare that option at the end of the period, the result would have been that I would have bought back from the Santa Fe certain timber; that is, that I have already used at

6728 these prices, $5.00, $5.25, $5.50, and so forth. If I do declare my option, then the money I had paid in on account would

be credited against the $3,000,000 plus carrying charges and interest that the option calls for.

Mr. Marble: If you cut all the timber under the stumpage arrangement, would not that result in getting the timber for you at less than the price expressed in the option for the purchase?

Mr. Kirby: No, sir, it would not: If I cut all the timber and had paid the option price, then I would not pay any more. All the money they are entitled to have out of the timber is the option price plus carrying charges, taxes and so forth, with their interest.

Mr. Marble: What I am getting at is this, would not the stumpage at the $5.00 per thousand and the succeeding prices expressed in the contract be the cheaper way to take this timber?

Mr. Kirby: Oh, no.

Mr. Marble: That is what I want to get at.

Mr. Kirby: No. The Santa Fe took the timber over at substantially $3.00, and I am buying it back at $5.00 plus interest, so you see it will cost me 40 per cent more to take it under the cut-
6729 ting clause.

Commissioner Harlan: If you continue to cut and pay the Santa Fe under the option, there is enough timber there to meet the option fully, is there not?

Mr. Kirby: Yes, sir.

Commissioner Harlan: And leave you a lot of timber besides?

Mr. Kirby: Yes, sir.

Commissioner Harlan: And as the option price has thus been paid in full, you get all the timber back without charge at all?

Mr. Kirby: Without any further payment; yes, sir.

Mr. Marble: You are basing this answer on the estimates of skilled cruisers of the timber?

Mr. Kirby: Yes, sir.

Commissioner Harlan: Let me ask how the taxes are taken care of. You said yesterday the Santa Fe paid them.

Mr. Kirby: Yes, sir.

Commissioner Harlan: And you pay $5.00 and the next year $5.00 and five per cent?

Mr. Kirby: That is correct, on a stumpage price, you call it five per cent.

6730 Commissioner Harlan: But ultimately who pays the taxes?

Mr. Kirby: I will have it to do if I take the lands, but——

Commissioner Harlan: You will pay the taxes after you take the land, but who pays the past taxes?

Mr. Kirby: The Santa Fe pays the taxes currently.

Commissioner Harlan: Do you repay that?

Mr. Kirby: I repay that; that is part of the option price, at the end of the five years, or whenever I exercise the option I will have to reimburse them for all money they are out, whether taxes, titles, lawyers' fees, cruisers, or what not, plus interest on their disbursements from the time they were made by them up to the time I have repaid them.

Commissioner Harlan: And you think there is no doubt about

that proposition, that there is enough timber to repay the option price on the basis of the contract and leave you a lot of lumber besides?

Mr. Kirby: There is no doubt about it. The lands were cruised by John P. Braydon, of this city, who is a very experienced lumber man and timber man in that line of business, and selected by the Santa Fe for that purpose or by Price, Waterhouse & Company, I don't know which; at any rate, he came down there with his army of cruisers and examined the lands very carefully, and the
6731 thing was made on his report of the quantity of timber.

Mr. Marble: In referring to this deal, we have spoken of it as being between you and the Santa Fe Railway Company. Is that technically correct; is it the Santa Fe Railway Company, the corporation as such with which you have your dealings in this regard?

Mr. Kirby: Well, I don't know, Mr. Marble; my dealings have been with Mr. Ripley, the president of the Atchison Company, and of these other companies. Of course you know Mr. E. P. Ripley and who he is; and I don't know who furnished this money for the purpose, the Santa Fe or somebody else, as far as that goes.

Mr. Marble: Is the Santa Fe Railway Company, the corporation which is also a carrier, a party to the written contract?

Mr. Kirby: I think not.

Mr. Marble: You think it is not?

Mr. Kirby: I think not.

Mr. Marble: Whose name do you go to as meaning the Santa Fe?

Mr. Kirby: J. R. Chapman is the name in this contract, the same as D. L. Gallup is the name in the other contract.

6732 Mr. Marble: Who is J. R. Chapman?

Mr. Kirby: I do not know; I have been informed that he is connected with the American Trust Company and Savings Bank here; probably an active vice president and a man of affairs here in Chicago, but I have never met him personally, so I speak of these transactions as Santa Fe transactions, because in so far as the negotiations and closing and all that is concerned, I did it with Mr. Ripley. Now, whose money was used, I do not know. Mr. Chapman or the American Trust and Savings Bank sent the money which was paid to us for these lands to the First National Bank of Houston, Texas.

Commissioner Harlan: There is just one other question I would like to ask, and that is whether you wish the Commission to understand that upon the conclusion of this option contract and the repayment in the manner you have indicated and that the contract calls for of the option price, the results will be your results or the Kirby Lumber Company. In other words, is there any equity in this whole proposition accruing to the Santa Fe or Santa Fe interests, except as you have disclosed it in your testimony?

Mr. Kirby: Not a thing, Judge. The substance of the whole transaction is that they have loaned me this money, or I
6733 mean they have loaned the Kirby Lumber Company this money at five per cent interest.

Commissioner Harlan: And you are standing for yourself and

the company and not in any ultimate sense standing for the Santa Fe or Santa Fe interests?

Mr. Kirby: In no sense whatever. I stand solely for the Kirby Lumber Company and I have no personal interest except as a stockholder of the Kirby Lumber Company.

Mr. Walter: Now, you said that there was ample timber on the tract to take care of this entire three million dollars.

Mr. Kirby: Yes.

Mr. Walter: How much have you cut?

Mr. Kirby: In the past year and a half we have cut about $200,000 worth at $5.00 a thousand.

Mr. Walter: How many million feet would that be?

Mr. Kirby: Well, that would be 40 million feet, would it not?

Mr. Walter: Forty million feet?

Mr. Kirby: We hereafter will cut a good deal less, because the timber which we cut in the past year and a half was timber adjacent to existing tram roads, and there will not be any considerable quantity cut in the future, for the next two years probably.

6734 Mr. Walter: Was that all cut from these Santa Fe lands?

Mr. Kirby: And from the Chapman lands, that $200,000 yes, sir.

Mr. Walter: Does that include any that you bought in among the other timbers you were cutting near these trams?

Mr. Kirby: That item does not, but we have bought a few little tracts along there.

Mr. Walter: The 40 million feet does not include anything but Chapman timber?

Mr. Kirby: No.

Mr. Walter: You are sure of that?

Mr. Kirby: Yes, sir.

Mr. Walter: Now, how much was the report of the cruiser Braydon on that land?

Mr. Kirby: I cannot tell you the exact figures, but something like a billion feet.

Mr. Walter: Something like a billion feet?

Mr. Kirby: Yes, a little more or less.

Mr. Walter: Was it more or less?

Mr. Kirby: It was right in that neighborhood; it was substantially a billion feet. It was not all pine; some oak, ash, hick-

6735 ory and woods of that character.

Mr. Walter: And how much pine was there?

Mr. Kirby: I would have to get the figures. I haven't them in mind exactly, but I can approximate it.

Mr. Walter: About half of it pine?

Mr. Kirby: I should say there were 900 million feet of pine.

Mr. Walter: 900 feet of merchantable pine?

Mr. Kirby: I should say so, but those are approximate figures. I cannot testify exactly, but I can get you that information. Price, Waterhouse & Company, I could go to their office and get it.

Mr. Walter: Was that a desirable bargain from your standpoint?

Mr. Kirby: To sell the property for that money?

Mr. Walter: Yes.
Mr. Kirby: No, sir.
Mr. Walter: Why did you make that trade, then?
Mr. Kirby: Because I needed the money.
Mr. Walter: Then they did relieve you from very serious embarrassment, is not that true?
Mr. Kirby: Not necessarily. I needed the money. Of
6736 course if I didn't get it from the Santa Fe, I would go to somebody else.
Mr. Walter: Why did the Santa Fe do it instead of sending you to the banks?
Mr. Kirby: They are friends of mine.
Mr. Walter: Pretty close friends?
Mr. Kirby: They are. Mr. Ripley and I are close friends.
Mr. Walter: You mutually help each other as much as you can?
Mr. Kirby: Yes, sir.
Mr. Walter: Do you know the Southwestern Land or Lumber Company?
Mr. Kirby: I have heard of it.
Mr. Walter: Where is it located?
Mr. Kirby: My understanding is that it is incorporated under the laws of New Jersey, and its office, I think, is in New York. I understand it to be a concern of Santa Fe ownership.
Mr. Walter: Does it operate any mills?
Mr. Kirby: I do not know. I do not think so. It may, but I do not know.
Mr. Walter: Are you connected with it in any way?
6737 Mr. Kirby: No.
Mr. Walter: Directly or indirectly?
Mr. Kirby: No.
Mr. Coleman: I wish you would look over this list and tell me if it is in the main the correct list of the mills of the Santa Fe operating without tap lines (handing paper).
Mr. Cowan: That is, his and others, I suppose?
Mr. Coleman: These are without any tap lines; that is, without any railroad at all.
Mr. Kirby: I cannot testify as to all these, Mr. Coleman. I know such concerns are reputed to be over there, but I am not familiar with them at all.
Mr. Coleman: I wish you would look at this, a published list of all the saw mills located on the Santa Fe lines, and see if you have seen that before. That comes into the hands of the lumbermen, I take it.
Mr. Kirby: Well, I have not seen it before, that is a long list. I do not see anybody here who is not on the line, but I could not tell as to the accuracy of this.
Mr. Coleman: I wish to offer those two lists in evidence.

(The papers so offered and identified were received in evidence, and thereupon marked Santa Fe Exhibits Nos. 1 and 2,
6738 witness Kirby, received in evidence January 31, 1911, and are attached hereto.)

Mr. Coleman: The purpose is to show that in spite of insinuations which have been thrown in the record that Mr. Kirby and the Santa Fe have planned to stifle everybody, we have 46 little fellows on our line who operate with mules.

Reference was made repeatedly yesterday to a contract with the Santa Fe purporting to give control of your freight traffic to it. Did not that contract provide that all those things were to be done if they could lawfully be done?

Mr. Kirby: Oh, yes, all those contracts are with that end in view.

Mr. Walter: Did you say you had a mill at Mobile?

Mr. Kirby: Yes, sir.

Mr. Walter: Is that operating now?

Mr. Kirby: No.

Mr. Walter: On what line of road is it?

Mr. Kirby: The Katy.

Mr. Cowan: There is one question we want to ask Mr Kirby. Yesterday you testified that your railroad divisions of your operations was of the value carried on your books at so and so, and that that was based upon a valuation made by somebody. Now,

6739 I wish to get as nearly as you may be able to give it what the railroad investment was.

Mr. Kirby: Of this 206 miles?

Mr. Cowan: Yes.

Mr. Kirby: Well, substantially two and a half million dollars.

Mr. Walter: How do you arrive at that?

Commissioner Harlan: That was stated by the witness yesterday.

Mr. Kirby: The figures in the balance sheet I gave yesterday were one and a half million dollars, but in the construction of these roads we absorbed an operating expense; that is, the capital account on account of tram roads, construction of the roads, is absorbed largely in operating expense. For instance we will lay three or four miles of spur track and that is absorbed in operating expenses, all except the rails. Then that construction becomes permanent and it is put into the capital account only at its rail value.

Commissioner Harlan: It it — torn up, it only appears in the operating account?

Mr. Kirby: Yes.

Commissioner Harlan: So the two and a half million dol-

6740 lars you have just mentioned as the actual cost of the road does not include road that has been laid temporarily and taken up?

Mr. Kirby: No.

Commissioner Harlan: It does include the steel?

Mr. Kirby: Yes.

Mr. Walter: Is that the present value?

Commissioner Harlan: No, its book cost.

Mr. Kirby: Its book cost.

Mr. Walter: What do you say as to its comparison with the present value?

Mr. Kirby: its present value would depend on what you wanted

to use it for. If you wanted to call it a railroad and capitalize it, it is probably worth three or four million dollars.

Mr. Walter: That is something over $10,000 a mile?

Mr. Kirby: Yes, sir.

Mr. Walter: And you think it is worth considerably more than that?

Mr. Kirby: With the rolling stock and all that; yes sir. As a railroad, valuing your earthwork, your roadbed, your ties,
6741 your rails, your turn-outs, switches, spikes, and everything else as they do in valuing railroads, with a reasonable value for your right of way and all that, your property would have a railroad value of not less than $15,000 a mile.

Mr. Walter: That is about the average value of railroads of that type in east Texas?

Mr. Kirby: Yes, sir.

Commissioner Harlan: You mean that would be its value as it stands now, or are you speaking of a railroad of 200 and some miles, connected together?

Mr. Kirby: No, I am speaking of our railroads as they stand now, including the rolling stock.

Commissioner Harlan: Three or four million dollars?

Mr. Kirby: Yes, sir.

Mr. Walter: It is 35 pound steel?

Mr. Kirby: No, it is part 35 pound and part 60 pound.

Mr. Walter: How much 35 pound and what 60 pound?

Mr. Kirby: About half and half.

Mr. Walter: And it is divided into each road about half 35 pound and half 60 pound?

Mr. Kirby: No, some are all 60 pound and 35 pound. For in-
6742 stance, the narrow gauge roads would be laid entirely with 35 pound rail.

Mr. Marble: You have testified that two and a half million dollars is the actual cost of construction of this 206 miles?

Mr. Kirby: About that; I am using approximate figures.

Mr. Marble: And that appraisers who were appraising the property for loan purposes gave it a present actual value of about one and a half million dollars?

Mr. Kirby: No, they adopted the figures of the receivers. When the receivers were appointed they revalued all the properties of the Kirby Lumber Company, ignoring altogether their book values, cost values, and they got things down to the lowest basis possible, as you know those things are sometimes done. When Price, Waterhouse & Company were engaged to go out and revalue the properties they sent this Mr. Braydon, I told you about, and he gave the properties a higher value than the book values of the receivers, but for our bookkeeping purposes we retained the old value that the receivers had put on, and since that time we have written off seven and one-half per cent, as we write off five per cent a year for depreciation and the figures I gave yesterday, one and a half million, was the net present figure after deducting the seven and one-half per cent

from the receivers' figures and Price, Waterhouse & Com-
6743 pany's figures.

Mr. Marble: What is taken into consideration by the receivers or this appraiser in reducing the two and a half million to one and a half million?

Mr. Kirby: In our saw mill operations we try to absorb during the life of the timber all the plant cost, and the receivers in valuing these properties put them down to almost their wreckage value, that is, the value of the rolling stock and the rail. And it is safe operation and it is sound bookkeeping not to have a great big capital value there in a dead plant when your lumber is exhausted. Of course when your lumber is exhausted your mill is worthless, only for junk, and your railroad is only worth what you could sell it at second-hand. The ties are valueless, the rails would have second-hand value. As to the rolling stock, it would not be worth much.

Commissioner Harlan: But you have indicated it might have a value as a railroad.

Mr. Kirby: As a carrier, permanent and valued as railroads are valued, these properties of ours would run with their rolling stock an average of $15,000 a mile.

Commissioner Harlan: Do you think you could sell your
6744 properties for railroad purposes at $15,000 a mile?

Mr. Kirby: There is no demand for them, and I do not think we could sell them.

Mr. Marble: Is not that a little bit like trying to reach an estimate of the value of these properties on the theory that they are situated somewhere else than where they actually are?

Mr. Kirby: Of course I do not mean to say they are worth that. I mean to say as railroads, if you regarded them as such, they would have a certain book or cost valuation and estimated value. They might not be worth a cent, because they might not be able to earn interest on the spikes. That would be the case of our railroads unless they had the Kirby Lumber Company's tonnage.

Mr. Andrews: I think I can make plain what Mr. Kirby has been stating. The Texas Railroad Commission has a system of valuation of railroads without regard to commercial value, or any other sort of value except the actual cost of production or the cost of reproduction when they go to make the examination, and they value every spike at so much a pound and every tie at so much a tie and every rail at so much a pound, and take in all the
6745 elements which make an aggregate and give it as the value to that railroad. I presume that is what Mr. Kirby has in mind in speaking of valuing it as a railroad.

Mr. Kirby: That is it exactly. Under the Railroad Commission's rule for establishing values, our property would be about on that basis, and I understand nearly all railroads adopt substantially the same method.

Mr. Marble: In the case of your proposition at least, that would be a theoretical value and not an actual market value.

Mr. Kirby: Certainly; they are not worth it.

Mr. Marble: It has been suggested to me you should tell us who

assumes the hazards of storms or other calamaties which might affect the value of this timber and destroy it.

Mr. Kirby: What timber are you talking about?

Mr. Marble: The timber which you have the option to purchase from the Santa Fe.

Mr. Kirby: Well, that would be the Santa Fe's hazard; they take that risk.

Mr. Marble: And the increment of value, the unearned increment, would be the Santa Fe's insurance against that; that would be the other side of that?

6746 Mr. Kirby: I do not know that I just understand that question.

Mr. Marble: Well, as to the storms at any rate; that is the Santa Fe's hazard?

Mr. Kirby: Yes, sir.

Commissioner Harlan: Suppose they were destroyed by fire; is there and understanding by which that loss falls on you?

Mr. Kirby: No.

Commissioner Harlan: Of the Chapman timber?

Mr. Kirby: No.

Commissioner Harlan: Directly or indirectly?

Mr. Kirby: No, nor the Gallup, because this is in the form of an option. I am under no obligation in the world unless I exercise the option.

Commissioner Harlan: Then you wish the Commission to understand that the Santa Fe is not carrying this property for you except as you have described it; there is nothing left undisclosed?

Mr. Kirby: That is it.

Commissioner Harlan: No inference which can justly be drawn from anything you have said to that effect?

Mr. Kirby: That is absolutely true; there is nothing about
6747 it except that which I have disclosed here.

Mr. Garwood: Will you file the option contract or a copy of it?

Mr. Cowan: We have offered to furnish it to the Commission and have submitted it and will do it, but do not want to file it for the record as an exhibit.

Mr. Garwood: Will you permit us to inspect it?

Mr. Cowan: That is just the reason we would not file it as an exhibit. We do not see any purpose for it. I do not suppose there would be any objection to your personally inspecting it, because you are all friends, but when it goes to the public that would be a different thing. But I am not speaking for the company in that particular.

Mr. Garwood: Have you constructed any material amount of trams and bought any material amount of locomotives since 1903, the latter part of it, or the first of 1904?

Mr. Kirby: Oh, yes.

Mr. Garwood: About to what extent?

Mr. Kirby: I could not give you the figures. We bought quite

a good many locomotives and cars, and bought rails and relaid railroads and we have taken up some railroads.

Mr. Garwood: How much of that was replacement?

6748 Mr. Kirby: I could not tell you that without an examination of the accounts.

Mr. Garwood: In November, 1903, when you were preparing to incorporate and made your conveyance to Mr. Hilliard as security for the $600,000 loan from Mr. Yoakum, you valued all your railroad properties, including equipment of all characters at $1,219,436.60.

Mr. Kirby: No, that was only the 120 miles, or whatever it was, involved in that. That was the book value, at that time, of that property.

Mr. Garwood: That was the book value?

Mr. Kirby: Yes.

Mr. Garwood: How much have you built since then?

Mr. Kirby: Oh, a great deal. I could not tell you how much.

Mr. Garwood: Do these figures of yours make allowance for depreciation?

Mr. Kirby: Yes, sir.

Mr. Garwood: How much?

Mr. Kirby: That is the balance sheet figures I gave you yesterday of $1,503,000; that is after deducting depreciation for a year and a half, which would be seven and one-half per cent.

6749 Mr. Garwood: But the figures which you gave this morning of your total value——

Mr. Kirby: The figures I gave this morning of the total value of the property were the cost value of the property. Of course there is no cost value.

Mr. Garwood: There is no cost value?

Mr. Kirby: And the railroad value. For instance, if we were to be valued for railroad purposes.

Mr. Walter: Have you any rails from the Santa Fe?

Mr. Kirby: We have some; yes, sir.

Mr. Walter: What do you pay for those rails?

Mr. Kirby: Six per cent is my recollection, on a pretty high valuation, but I do not know what it is.

Mr. Walter: How many tons of rails, or how many miles?

Mr. Kirby: I don't know. We were to get 15 miles from the Santa Fe. I do not know how many have been delivered; I think six or seven. We got some from the Frisco.

Mr. Walter: What size?

Mr. Kirby: They are from 52 pounds to 60 pounds in different sections.

Mr. Cowan: I do not believe you stated the aggregate

6750 capacity of the Kirby mills, which you described yesterday.

Mr. Kirby: About 300 million feet a year; that is about what they could do.

Mr. Cowan: But of course the output does not amount to that. You showed what it was?

Mr. Kirby: Yes.

Mr. Cowan: In regard to the charging off point; in answer to

Mr. Marble, I believe you stated about it; just briefly what does that mean? You say the lumber company charges off, so when the timber is cut off——

Mr. Kirby: You carry into your depreciation account a sufficient sum so that at the end of your operations, for instance, say you have a mill property costing you $500,000 when you begin that goes into capital account, when you begin operations. When you finish operations, notwithstanding your mill from daily repairs you make upon it may be of as high efficiency as when you began, yet these repairs and renewals and betterments all being made from the operating account, and notwithstanding your mill is still of that high efficiency, yet it is of no value because there are no trees to operate on; it is of no value as a mill. Its value is what is the second-hand value of the machinery and other things you may take out
6751 of it. So it is good bookkeeping to write off a certain percentage of the value of that property every year, so that your capital account is substantially reduced or practically wiped out.

Mr. Cowan: At the end of your operations?

Mr. Kirby: At the end of your operations.

Mr. Cowan: Now that same thing applies with respect to your timber holdings?

Mr. Kirby: Yes.

Mr. Cowan: And to your railroad and whatever else is necessary as part of the means of carrying on your operations?

Mr. Kirby: Yes, sir; you would write off your timber holdings consumed every year, if you carried them in capital account, but from your mill and tram roads you write off an arbitrary sum?

Mr. Cowan: That is usual in timber operations?

Mr. Kirby: Yes, sir.

Mr. Cowan: And includes the mill, timber and railroad and everything else?

Mr. Kirby: Yes, sir.

(Witness excused.)

6752 J. W. LINK was called as a witness, and having been duly sworn, testified as follows:

Mr. Cowan: Where do you live?

Mr. Link: I live at Houston, Texas.

Mr. Cowan: Formerly you lived at Orange?

Mr. Link: Yes, sir.

Mr. Cowan: You have been engaged in the lumber and timber and saw mill business for a number of years?

Mr. Link: I have been actively engaged in the saw mill business from 1905 until January, 1910. I have been engaged in the timber business and in the purchasing of timber probably for fifteen years.

Mr. Cowan: You are acquainted with the location of the forests in Louisiana and Texas?

Mr. Link: Very well acquainted, yes, sir.

Mr. Cowan: Acquainted with the situation as to saw mill operations, tap lines, and so forth?

Mr. Link: Well, I think so, in a way.

Mr. Cowan: What was the business which you operated?

Mr. Link: Our company is the Miller-Link Lumber Company.

Mr. Andrews: Will your Honor suspend for a moment for a conference, by which we think possibly we may shorten the ex-
6753 amination materially?

Commissioner Harlan: Very well.

(Whereupon counsel withdrew for consultation.)

Mr. Link: You asked the name of the company, I believe.

Mr. Cowan: Yes.

Mr. Link: It is the Miller-Link Lumber Company.

Mr. Walter: That is the concern you are with now?

Mr. Link: No, sir, I am not with any concern now. That was the concern I was formerly interested in. I parted with my interest in the Miller-Link Lumber Company a year ago in January, and have no interest whatever now.

Mr. Cowan: Where does and where did the Miller-Link Lumber Company operate?

Mr. Link: The Miller-Link Lumber Company had a mill at Orange, Texas, and one at Newton, Texas, on the north end of the Orange & Northwestern, a little road running out from Orange 60 miles in length. The headquarters were at Orange.

Mr. Cowan: What was the extent of their timber holdings?

Mr. Link: Well, about three or four hundred million feet.

Mr. Cowan: Situated where?

Mr. Link: In the counties of Houston, Orange, Jasper and
6754 a little in Louisiana.

Mr. Cowan: How did the Miller-Link Lumber Company procure its logs to its saw mill?

Mr. Link: I think at the time I was with the company, and I think they operate in the same way and have the same logging arrangements, we had a tram road running out from a place called Bunker Hill on the Orange & Northwestern 27 miles north of the town of Orange. We had tram headquarters there, and had our tram road running into the forest. We cut the timber and logged it into the railroad with the Orange & Northwestern, and they hauled it down for us to the mill, for which we paid them, I believe, $1.25 a thousand feet. That was for the Orange mill. Now the Newton mill we logged from about ten miles south of Newton, and we had a trackage arrangement for which we paid them so much a mile, I don't remember what the compensation was. I think it was a difference in empties and loads, I think it was so much for an engine and so much for the empty train and so much for the load, but I am not clear as to whether it was fifty cents a mile, or something like that.

Mr. Cowan: Then when you milled the logs at Newton, what operations did you carry on there by rail as a part of your
6755 saw mill operation?

Mr. Link: We had our little tram road running out connecting with the railroad down south of Newton, and it went out into the woods.

Mr. Cowan: When the lumber was sawed and milled and ready for shipment, who handled it?

Mr. Link: The Orange & Northwestern was bound to handle it, because there was no other railroad running there.

Mr. Cowan: Did your saw mill operation involve the use of tracks to handle your lumber, or was it handled by the Orange & Northwestern?

Mr. Link: The Orange & Northwestern handled the lumber. We did not handle any lumber from the mill at all.

Mr. Cowan: How far was your planer from the main track of the Orange & Northwestern?

Mr. Link: About fifty feet, I think; that is, from the Orange & Northwestern spur. The main line, I believe, used to stop down about four or five hundred yards.

Mr. Cowan: And it was a spur out from that?

Mr. Link: Yes, it had the appearance of the main line, because it was the extension of the main line apparently, but I think it was considered as a spur. That was the end of the road, and this
6756 spur extended in a northerly direction and had the appearance of being an extension of the main line, but I think it was considered as a spur.

Mr. Cowan: In the case of the Orange mill, what was the operation there in connection with handling the lumber from the mill to the trunk line?

Mr. Link: We had two railroads at the time I was with the company operating in there, one the T. & N. O. and the other the Orange & Northwestern. Both had spurs and switches running into our yard, and sometimes we loaded part of the lumber out on one and part on the other. Generally we were shipping by both roads.

Mr. Cowan: Did your company get any division of rates?

Mr. Link: No, sir, we did not while I was with the company.

Mr. Cowan: What was the capacity of your mill?

Mr. Link: The Orange mill had a capacity of about 125,000 feet daily and the Newton mill about 60,000.

Mr. Cowan: Was your lumber marketed in the same general market you heard the witnesses testify that lumber is marketed in?

Mr. Link: Yes, we market it in the same general markets as other-, I presume.

6757 Mr. Cowan: You have sold out your interest in the Miller Link Lumber Company?

Mr. Link: I have no interest.

Mr. Cowan: Explain the method of operation of your tram roads to get your logs in in each case.

Mr. Link: Well, we build our trams out into the woods——

Mr. Cowan: Take Newton, for example.

Mr. Link: Well, Newton was a little peculiar in that respect because they never put in what you might call a permanent tram into the Newton mill. We had only owned that mill something like a year prior to the time I left there, and we owned very scattering tracts of timber south of Newton; that is, it was not compact bodies, and I think we only had three or four miles of railroad there, and we

would run out our track and have a camp and everything, but it was temporary in a way. We did not have what you would call a permanent tram road. The main timber lands were north. We were not operating that timber, and we simply ran out the spurs from the Orange & Northwestern two or three miles, I think was probably as long as any spur they had from that mill, and I was advised they are not operating those trams at all. I do not know whether they are operating the Newton mill at all, but I think it has been
6758 logged from down below, but they were all temporary tracks.

At the Orange mill it was a different operation. We had a permanent camp at Bunker Hill, and had commissary houses like an ordinary camp, and we had the main line track, and we built our spurs off from this main line that went into the timber. Of course we tried to lay out, and they always do, to lay out a main line which would take into consideration the timber holdings of the company, and they generally lay out a main line which will be of permanency, and build it so you can maintain it and run over it safely. They build it up better then they do the laterals or switches which run out into the forest sections of land. Our main line we built a little bit better track because we expected to stay there until we finally finished logging in that locality, whereas the spurs were merely here until this tract of timber was absorbed and then were taken up and moved.

6759 Mr. Cowan: How many miles of main line track?

Mr. Link: I think they have got probably eight to ten miles of track.

Commissioner Harlan: This is at Newton?

Mr. Link: No, sir, this is at the Orange mill, Bunker Hill, they call it.

Mr. Cowan: Are there other sawmills in your locality which you know of, which do not perform any materially different service in the matter of the railroad and logging operations and mill operations to what you do, who do get divisions of the rates, which you can point out?

Mr. Link: I think so, yes, sir.

Mr. Cowan: Have you any particular one in mind?

Mr. Link: Well, I do not know that I could particularize them, I guess I could. There are a number of them. I never could see much distinction between the fellow who was getting a division and the fellow who was not. They all necessarily now, in order to operate a sawmill of any capacity, must have a railroad. Of course you can operate a small mill in the old primitive way of hauling them in with ox teams, but in order to operate a mill, you might say of 25,000 capacity and up, it is practically impossible to log it
6760 other than by the modern way of having a tram road.

Mr. Cowan: Are there a good many of the mills operating by teams?

Mr. Link: Oh, little jerk water mills, you know, who will go in and cut off 160 acres, they put in a mill generally of a small and temporary character. Some mills probably cut as much as twenty thousand to twenty-five thousand feet, which operate for a time by

teams, but they are bound to be short lived, because when they get a mile or a mile and a half away they cannot do it. I think a two mile haul by ox team, they charge $2.50 per thousand for hauling the logs, and when you go to pay that and take the additional expense of hauling the lumber and all, it makes the tramming too high, and you cannot stand it.

Mr. Cowan: If the tramroads in Eastern Texas are to be considered as railroads, what would you have to say with respect to the relative amount of railroads in that community to other parts of Texas?

Mr. Link: If you were to make a map, I think that with all the tram roads in East Texas on it, it would look like we had a country which was rather dense in population, and a wonderful railroad knowledge. The roads are winding around there very thick,
6761 around every saw mill in the country, and there would be an immense mileage of railroad.

Mr. Cowan: How is the country generally with respect to its productive capacity other than of lumber?

Mr. Link: The country generally is a poor country; that is true of all piney wood country. When you get the timber off you get the principal part of its productiveness. It is not considered a good agricultural country, and not very productive of tonnage other than the natural growth of timber, similar of course to all pine wood country. The land is worth for agricultural purposes after the timber is cut off, and frequently sells, where it does sell, at about $2.00 an acre. You can tell from that about the value it has as a producer.

Mr. Cowan: How much agricultural development has there been in that country since you have been operating in buying and selling timber there for 15 years, in that pine wood country in East Texas?

Mr. Link: I think there is less agricultural development——

Mr. Garwood: Do you include in that all East Texas, Mr. Cowan? That is an im-ense scope.

Mr. Cowan: The part he is acquainted with, I should have
6762 stated. I meant to do that. That is where he has been buying.

Mr. Garwood: I do not want to see all East Texas indicted as not having agricultural possibilities. We are booming that country too much for that to go out to the public.

Mr. Cowan: Let us see what he says about it.

Mr. Link: There are some parts of East Texas which are fairly good agricultural land. You take what is known as Red River Country, around Nacogdoches, the earliest settlement in the state was in that country. But take the counties of Newton, Jasper, San Augustine and Tyler, and a number of counties known as the Long Leaf Belt, I do not believe there is as much farming in that country now as 15 years ago. Those people have quit the farms and followed up the sawmills, and you see more abandoned farms than you do new ones going in. I do not think there is as much farming there as there was prior to the development of the lumber industry in that country. The lands are poor, and those people seemed to make a

living there in former years, but now that other opportunities are offered such as tramlines and saw mills they have gone to work, and there is very little farming.

Mr. Cowan: These facts you have mentioned are perfectly well known and observable to everybody.

Mr. Link: I think so. I do not think it would apply to
6763 all East Texas. Probably the northern part of East Texas is better agriculturally, and there are probably hard wood countries, and what is known as the short leaf country, the lands are a little more productive than the long leaf.

Mr. Cowan: How is this condition you have just described in Louisiana as compared with Texas?

Mr. Link: I think it is very similar. The forests are very similar.

Mr. Cowan: Did you know in regard to the matter of export of lumber what arrangements existed in that part of the country as to seeking a market for export?

Mr. Link: Well, there is quite a good deal of lumber exported from that country. Now from our Orange Mill, we exported a good big per cent of our product, because we were on the water and had cheap transportation to Port Arthur, where we loaded on board a vessel. We probably exported 25 to 30 per cent of our product from the Orange mill, and from the Newton mill—from group of mills in that long leaf belt, there was a freight rate, I think, ranging from five to possibly eight cents per hundred pounds to Deep Water may be from four cents up to eight cents. When the export market was brisk, that is when freight rates on the sea were down, it generally shoved the lumber market upward, and frequently there
6764 were seasons of the year when there was a large amount of lumber being exported by the interior mills that had a rate of 5, 6, or 7 cents. And there were other times when those mills could not reach the export market very well for the reason that in order to absorb that freight rate to the ship, they could better afford to sell their lumber in the interior, whereas the mills located immediately on the water had the advantage in that they had a very light cost to put their lumber on board the ship, and I could not say what percent of the lumber of Southeast Texas and West Louisiana was exported, but quite an amount.

Mr. Cowan: What was the comparative price of the lumber lands which you were acquainted with, and what were they generally sold for in the pine districts you have mentioned in Louisiana and Texas, going back to the time you began operations, and coming up to this time, what has been the range of prices?

Mr. Link: Well, I do not know what you mean by the time we began operations——

Mr. Cowan: I mean when you went into the timber business.

Mr. Link: Say going back fifteen years you could buy the timber land in East Texas and Western Louisiana from $2.00 to $5.00 an acre. There might have been a little sold as high as $8
6765 or $10, but you could buy a large amount of average land for $5.00. I remember buying some for some clients, I think eighty thousand odd acres in one body, I bought it from various people, some from the railroad company, and a large quan-

tity from the Texas Central and different individuals. I think I bought up eighty thousand or ninety thousand acres of good virgin timber, and my recollection is that the average price was about $5.16 per acre. That was either in 1900 or in 1899. That same body of timber to-day I suppose would sell, if put on the market, for $75 an acre. It could not be bought for $100 from people who do not want to sell it, but if put on the market I am satisfied it would sell for $75, and might sell for $100. Stumpage was then from 50 cents to one dollar, and now the ruling price of stumpage, you might say, is five dollars. The present price of lumber I do not think justifies $5.00 stumpage, but at the same time since the panic —lumber fell off during the panic very rapidly, and has not recovered, so I am told. It had not up to the time I sold out. Timber did not seem to go off. The mill man was willing to sacrifice his lumber to keep up his interest payments, but he held on to his timber lands; so that while there has been a great deal of
6766 timber land selling, I do not think there has been any reduction in the price. I do not think there is very much to sell. They are pretty hard up, but seem to be holding on to all the timber lands expecting better times in the future, of course.

Mr. Cowan: Did the increase in land values mentioned result in any sense from the increase in the value of the land if the timber were off of it?

Mr. Link: No, there may be a little increase in the value of the naked land. There has been of all lands over the United States in the past few years. I have heard of some cut over land selling for as high as four or five dollars an acre in the past two or three years, but the ruling price used to be one dollar. You could buy it for one dollar an acre. But now I think the ruling price of the cut over timber land, if you found somebody who wanted to sell, might be considered $2.00 or $2.50. I do not think there is much selling. They are holding pretty well, and a great many are holding it for the growth of timber.

Mr. Cowan: Does it reforest?

Mr. Link: Well, it does in a way. It does not very rapidly, but pine grows pretty fast when it is given lots of water.

Mr. Cowan: That is long leaf?

Mr. Link: Yes. It does not grow as rapidly as the short
6767 leaf. Short leaf will reforest much faster than long leaf. Long leaf is a very slow growth.

Mr. Cowan: The conditions you have stated as to prices would apply generally to that long leaf belt of East Texas or Southwest Louisiana?

Mr. Link: Yes, sir, I think so.

Mr. Cowan: Did you have anything to do with the marketing of your lumber when you were engaged in the sawmill business with the Miller-Link Company?

Mr. Link: In a way I overlooked it—that is I tried to keep in touch with it, but we had a sales agent who had active charge of the marketing of lumber.

Mr. Cowan: But you had general knowledge of it?

2755

Mr. Link: Yes, I kept pretty well up to it, as well as I could.

Mr. Cowan: Will you state whether or not you thought or believed—I suppose it could not amount to more than a thought or a belief—or you may state whether or not you knew that those persons who had their investment in tap line railroads and sawmills, who were getting a division of the rate had any advantage of you in the marketing of the lumber.

Mr. Link: We thought so; that was my opinion, that is all
6768 I could give.

Mr. Cowan: You have been controverting this matter ever since the matter arose three or four years ago?

Mr. Link: Yes, sir, I was somewhat active in the matter when I was in the lumber business.

Mr. Cowan: What did you think that advantage was?

Mr. Link: Well, I thought that advantage was whatever the amount of division they got. I found——

Mr. Cowan: Did you in the course of entering this controversy, pay attention to the general situation in that part of the country?

Mr. Link: Yes, I looked at it pretty closely.

Mr. Cowan: Was it your opinion or not that that advantage generally applied in behalf of those who had divisions as against those who did not.

Mr. Link: I could not figure it out any other way, and if we operated a tram road the same way as the other fellow, and if he got a division from the trunk line and we did not, that he had the advantage.

Mr. Cowan: Did you feel any effect of it in the competitive sales of lumber?

Mr. Link: We thought we did after the panic. We did not
6769 notice any prior to the panic, because we were all getting a big price for the lumber, and that matter did not make much difference, we could sell our lumber anyway.

Mr. Cowan: You had money to burn, then?

Mr. Link: We had money to burn then, yes, but when the price dropped down three or four or five years ago, we began to feel it, or that is we thought we did.

Mr. Cowan: Are there any other points you have in mind which you would like to state, or that I have not asked you about?

Mr. Link: Well, I do not know of anything that I care to state unless somebody wants to hear it. I suppose the matter has been very thoroughly explained down there, and the conditions as they exist are pretty well known to everybody. I do not think of any explanation I have to make.

Mr. Cowan: That is all.

Cross-examination.

Mr. Garwood: Mr. Link, you stated that you thought that it was your opinion that you were at a disadvantage in the market to the extent of divisions. Now you have been requested to file here a statement by your company of your average selling price of your
6770 lumber for a given period stated in the notice; you have also been requested to file a statement of the average cost of pro-

duction; each of those statements being general in their nature, and also as applied to the several grades of the products. Now would not the production of those figures be more valuable in determining as compared with others whom you say have tramroads on which they get a division and a comparison of what the other man is selling at, and what you are selling at, and what it cost him to produce, and what it cost you to produce—would not that be more valuable than your mere general opinion or as you say, your thought on the subject?

Mr. Andrews: We object, if the Commissioner please, because that is asking a legal opinion from the witness as to the weight and value of his evidence.

Commissioner Harlan: The objection is sustained. That is a matter for the Commission to decide.

Mr. Garwood: Note our exception. All then that you propose to say on that subject is that after the panic when the shoe was pinching, that you thought in all likelihood the other fellow must have an advantage of you, that is about the size of it?

6771 Mr. Link: Yes, sir. As long as everybody was making plenty of money it was not noticeable whether that one fellow might be making any more than the other.

Mr Garwood: But when prices went down you discovered in a general way, without any figures to sustain it, but you just thought that the other fellow must have the advantage of you.

Mr. Link: No, I did not just think it, Judge. I did not know the extent of these divisions. I had heard rumors of this concern getting a division and that concern getting a division, but never have paid a great deal of attention to it, but when the fact became known better I could not figure it out, and I cannot yet why if there are two mills located similarly and are operating the same amount of railroad, and operating under similar conditions and paying for labor about the same, and one gets say four cents back from the trunk line, and the other one does not, I cannot analyze that question in my mind so as to figure that the fellow who is not getting a division is getting just as much out of his lumber as the other man. In other words, I cannot see why he does not have about four cents the advantage.

6772 Mr. Garwood: If it should appear that the other fellow, as you term it, never undersold you in the market at any place or time, substantially, other than that fugitive competition that you all have with each other, or if it should appear that the other fellow had not made anything especially out of his railroad, then of course your opinion would differ?

Mr. Link: Well, I do not know whether it would or not. I might be thoroughly convinced that he might not make a dollar, he might not. He might get a division and not make a penny, but at the same time we might sell lumber on the market at the same price and lose a dollar. He would have that advantage. He might not undersell, but he would be getting an advantage. In other words he would be getting more for his product than we would.

Mr. Garwood: That would be entirely conditioned upon the

proposition whether he made anything out of his railroad, would it not?

Mr. Link: We never figure in operating a sawmill on making anything from our railroad. It is just part of the expense of operation.

Mr. Garwood: You do not figure on making anything out of that?

Mr. Link: No, it is just part of the logging expense, and is charged up to logging expense.

6773 Mr. Garwood: If the other fellow never made anything out of his railroad, you cannot conceive he would have even remotely a small advantage of you by virtue of his stock ownership.

Mr. Link: If he got anything out of it at all he would get that much more than the fellow who did not get anything. Anything he would get would be that much over the other fellow, that is if they are located similarly. Of course there might be different conditions and one man might be entitled to it and the other not, but assuming they are similarly located and similarly situated.

Mr. Garwood: You then attach no importance to the proposition that simply because a man owns stock in a lumber company that he cannot own stock in a railroad?

Mr. Link: He can certainly do that, if he is able to, I guess.

Mr. Garwood: There is no reason why if he has really got a railroad he should not be permitted to earn on the transportation facilities?

Mr. Link: There is no question but what a man can be in the sawmill business and in the railroad business too. There is a difference in the way he operates his railroad in connection with the sawmill. I have always thought that the sawmill and railroad

6774 were two different propositions and should be.

Mr. Garwood: And there is no reason in your mind why a man who owns stock in a lumber company cannot also operate a railroad, provided it is a railroad.

Mr. Link: Yes, sir, none whatever provided it is a railroad.

Mr. Garwood: And your remarks are confined entirely to those cases where the railroad is substantially a plant facility and nothing else?

Mr. Link: Yes, that is exactly what I am getting at.

Mr. Garwood: It is a mere tram, in other words?

Mr. Link: Yes, that is what I would like to be understood as saying.

Mr. Garwood: And no further than that?

Mr. Link: If it is a railroad and complies with the law and after examining all the facts surrounding it it is shown that it is a common carrier within the meaning of common carrier, then there is no question but what the sawmill man would have a perfect right to have stock in it the same as any other citizen of the United States.

Mr. Garwood: And to earn reasonable rates on the products.

6775 Mr. Link: Yes.

Mr. Garwood: Who composed the firm of Miller & Link before you went out of it?

Mr. Link: The stock was owned by Mr. Miller and myself and one of Mr. Miller's boys. I owned half of it, and Mr. Miller and his son owned the other half.

Mr. Garwood: Who composes the firm now?

Mr. Link: I think Mr. Miller owns practically all the stock. I think Mr. Tam owns a little stock, and Mr. Miller's boy, but the company is practically owned by L. Miller. I sold my interest to Mr. Miller.

Mr. Garwood: Who built the Orange & Northwestern?

Mr. Link: It was promoted by Gilbert L. Moore, who is now dead, and I think at the time there were a number of Orange people interested in it, and Mr. Miller had some stock in it, and I had a little stock in it myself, a small amount. A number of local people were interested, but Gilbert L. Moore was the big stockholder.

Mr. Garwood: Was he interested in the lumber business?

Mr. Link: He was at that time. He sold out his interest in the lumber business about ten years ago.

Mr. Garwood: To whom?

6776 Mr. Link: To Lutcher Brown & Company, the Lutcher Brown people were his associates.

Mr. Garwood: That road was essentially a lumber road to start with?

Mr. Link: Well, it was built as an outlet to get to the Santa Fe. We only had one road then which was the Texas & New Orleans, and we always imagined we did not have very good shipping facilities, and that was built as an outlet for the lumber to get to the Santa Fe, and further to reach into that country up there, but it did not reach the timber holdings of any mill at that time operating in Orange. I do not think they owned an acre at that time. They might have owned a little, but it went through the Houston Oil Company's holdings mostly.

Mr. Garwood: Having but one road, whether correctly or not, the lumber company people felt they were not afforded sufficient facilities and could not get cars when they wanted them, and so they built over to Buna.

Mr. Link: That was the idea.

Mr. Garwood: A great part of that stock was held by the heavy lumber operators, was it not?

Mr. Link: I think so. They were the only people that had

6777 any means.

Mr. Garwood: And were interested in its construction Orange about that time was what sized town?

Mr. Link: About 4,000 perhaps.

Mr. Garwood: There was not anything at Buna?

Mr. Link: No, just a kind of logging camp, several hundred people.

Mr. Garwood: Kind of a logging camp?

Mr. Link: Yes, sir.

Mr. Garwood: So that the primary construction and the ownership of it was for the purpose of getting better facilities for the purpose of getting your lumber out to another connection, and getting

more cars, and in other words inducing the competitive element into the lumber situation.

Mr. Link: Yes, sir, and everything else, but the lumber being the principal product, of course that was the main thing.

Mr. Garwood: About when was that built?

Mr. Link: That must have been built about 1899, I am not sure.

Mr. Garwood: About 1899?

Mr. Link: Somewheres along that.

Mr. Hancock: 1900.

6778 Mr. Link: 1900.

Mr. Garwood: When did you build from Buna to Newton?

Mr. Link: It must have been three or four years later. The Frisco people built that. They bought the line from the Orange people.

Mr. Garwood: When did the Frisco people buy from the Orange people?

Mr. Link: It must have been five years ago—I cannot give the dates of those transactions.

Mr. Garwood: Do the Frisco people own the stock in it now substantially?

Mr. Link: I think so, or the Yoakum interest—I cannot follow it up.

Mr. Garwood: Oh, yes, but substantially the Frisco interests?

Mr. Link: Yes.

Mr. Garwood: Do any of your partners still own any interest?

Mr. Link: I think Mr. Miller owns a little, and he is president of it.

Mr. Garwood: He is president of it?

Mr. Link: Yes. I think he has been president of it all the time. I think he has about one share of stock.

6779 Mr. Garwood: Have the Miller-Link people got any contract of any kind relative to the transportation either of logs or lumber over that road?

Mr. Link: I have been told, and I could only speak from hearsay—up to the time I left the Miller-Link Company they had not. Let me understand your question. Any contract?

Mr. Garwood: Any contract——

Mr. Link: We had a contract prior to the time I left by which they hauled our logs for $1.25 a thousand.

Mr. Garwood: From where?

Mr. Link: From anywhere on the line to Orange.

Mr. Garwood: Anywhere between Buna——

Mr. Link: Anywhere between Newton and Orange.

Mr. Garwood: Anywhere between Newton and Orange?

Mr. Link: Yes, sir, when we delivered them f. o. b. cars they brought them down there for $1.25 a thousand feet log scale, which is about $5.00 a car.

Mr. Garwood: And you had your trams connected with the Orange & Northwestern?

Mr. Link: Yes, sir, we delivered them to them in train lots.

6780 and they generally ran a solid train of logs for us once a day of about thirty cars.

Mr. Garwood: That was a contract in force before you left them?

Mr. Link: It was in force practically during the entire period I was connected with the operation of the Miller-Link Lumber Company.

Mr. Garwood: Was there any provision in that contract for a refund of this charge in after the lumber went out?

Mr. Link: I think not. There was no provision in the contract we had for any refund. There had been some kind of a tariff placed on record allowing us so many cars of logs, so much return freight, if we got in so many logs and gave them back so much lumber we got so much return.

Mr. Garwood: Yes, that is it.

Mr. Link: But we never collected a cent of that tariff, in fact I did not know there was such a tariff for two or three years until someone told me there was one, and I looked it up and found there was, but we never got paid a penny from the railroad company. But they afterwards withdrew it.

Mr. Garwood: Did you ship out over that line?

Mr. Link: We shipped out over that line. That arrange-
6781 ment was made with Mr. Beard of the T. & N. O., and Mr. Hoe in some way, in which the Orange & Northwestern was to turn the stuff over to the Southern Pacific. I do not remember the details of it. That was before they went with the Frisco. That arrangement seems to have been made, this tariff was authorized by the Commission, and the fact is I don't know much about it, because we never lived up to it, and neither did they. We did not get anything at all; we never got a penny. I think Mr. Miller is trying to make them pay an amount that they owe him now. I understood that he has filed a claim there for quite a little amount of money.

Mr. Garwood: Would Mr. Miller know about that arrangement, that contract?

Mr. Link: Mr. Miller I presume would know about it. I do not think he knew much more about it than I did at the time. I suppose he has looked into them since.

Mr. Garwood: Was that the only contract you had relative to the transportation of those logs?

Mr. Link: I think the contract we had relative to the transportation of the logs was a written contract by which the Orange & Northwestern agreed to haul them, say 250,000,000 feet of timber,
6782 anywhere from the north end of the line to Orange for the sum of $1.25 per thousand feet, they to furnish the cars, and that contract provided further that all things being equal, we were to give them the return freight, but did not provide that we were to receive any compensation for giving them the lumber. It was a written contract that was entered into between the Miller-Link Lumber Company and the Orange & Northwestern Railroad. That is my recollection of that contract. I am sure there was no stipulation as to any return in it, but this tariff I speak about was some sort of verbal arrangement which had gone into effect prior to the time the contract was entered into. The fact is it was called to my attention, I remember, by Mr. Duff at Austin. They could not understand why

we had not got this return from the road. The Miller-Link Lumber Company had not up to the time I had left, received a penny, and that will be borne out by the Orange & Northwestern and the T. & N. O. records.

Mr. Garwood: The contract was that you were to pay $1.25 a thousand to the Orange & Northwestern?

Mr. Link: Yes, sir.

Mr. Garwood: It was owned by yourself practically?

Mr. Link: No, it was not. I did not have a penny's interest in it in the world.

6783 Mr. Garwood: Did you not say you were a stockholder?

Mr. Link: I was prior to the time this contract was executed, but this contract was made after it went into the hands of the Yoakum interests. I will draw the distinction. This return business when this tariff was promulgated was issued prior to the time this contract was made. The contract was made after that. I do not know how long before this tariff was got out, but it went into the hands of the Yoakum interests, and it was some kind of a contract between the Orange & Northwestern and the T. & N. O. I have the idea the Orange & Northwestern was to bring down the logs and to turn them over to the T. & N. O., and they were to give us some kind of a return for the log haul.

Mr. Garwood: Sort of a milling-in-transit proposition?

Mr. Link: Sort of a milling-in-transit proposition, but they did not do it. We never got anything out of it, and I understand Mr. Miller—in fact, some one told me not long ago that Mr. Miller was trying to make them pay him for that now.

Mr. Garwood: If there was a recovery of any sort against the road, would you have any interest in that recovery?

Mr. Link: No.

6784 Mr. Garwood: Did the Lutcher-Moore people use that road for the transportation of their logs into Orange?

Mr. Link: The Lutcher-Moore people never used that road for the transportation of their logs except I remember at one time they bought, I suppose eighteen or twenty million feet from a party up there, and it was delivered over that road. That was seven or eight years ago. I think it was three sections of land they bought from somebody, and they hauled it down over that road. I do not think they ever got another foot of log. The Lutcher-Moore people were operating on the other side over in Louisiana.

Mr. Garwood: Do you ship any lumber over the Orange & Northwestern?

Mr. Link: I always did when I was connected with the Company.

Mr. Garwood: Did the Lutcher-Moore people ship any over it?

Mr. Link: Yes, sir.

Mr. Garwood: Did they ship any lumber over it prior to its acquisition by the Frisco people?

Mr. Link: I presume so. I believe they always shipped over it more or less.

Mr. Garwood: Did the company collect the published rates
6785 from them?

Mr. Link: I assume so, I do not know.

Mr. Garwood: That is your understanding, of course.

Mr. Link: It is my understanding they collected the same rate as if it was going out over the T. & N. O.

Mr. Garwood: There was practically nothing shipped up from Orange to this place, Buna, except the products of these two mills, was there?

Mr. Link: Well, those were the principal shipments. There was quite a little incoming freight which came by the Santa Fe and the Orange & Northwestern at all times, merchandise and stuff of that kind. But I suppose——

Mr. Garwood: That did not amount to a great deal?

Mr. Link: No, but a pretty good line of business, though. They did quite a little business, not as compared with the other roads however.

Mr. Garwood: In the other way you used that for the shipment of your lumber?

Mr. Link: It was used largely just like the T. & N. O. The T. & N. O. shipped ten carloads of lumber out of Orange to one carload of anything else. Any road that ran in there would ship that.

6786 Mr. Garwood: No question but that is true. You never regarded the Orange & Northwestern in any sense as a plant facility of the Miller-Link or the Lutcher-Moore Companies, although you owned the stock in it?

Mr. Link: It was not a plant facility at all. It was a railroad.

Mr. Garwood: It performed a real transportation service?

Mr. Link: It was very easy for me in my own mind to distinguish a road of that kind from a plant facility.

Mr. Garwood: And it was incorporated as a railroad?

Mr. Link: Yes, sir.

Mr. Garwood: And in your judgment performed the services of a railroad?

Mr. Link: Yes, sir.

Mr. Garwood: And was therefore entitled to its legal charges?

Mr. Link: As I understand it, yes sir. That was my understanding.

Mr. Garwood: You spoke of the agricultural development of East Texas. The term East Texas includes a vast scope of territory.

Mr. Link: I understand it. I will limit it to those counties, Judge.

6787 Mr. Garwood: Just let me——

Mr. Link: The pine wood counties.

Mr. Garwood: You mean the counties of——

Mr. Link: Where the pine timber has been taken off.

Commissioner Harlan: Suppose you state the facts as you understand them with respect to this part of Texas. Is not that what you are inquiring about?

Mr. Garwood: I understand, your Honor, that some of the richest agricultural country in the world is in East Texas, and some of it

is right in the very country where these railroads are developing, and counsel's question just applies in a general sweeping way to East Texas, and I want Mr. Link to limit it.

Commissioner Harlan: We will let it stand on your statement.

Mr. Garwood: I hate to testify.

Commissioner Harlan: The Commission has asked you to make the statement. I think we will stand on that. I do not see the value of it except in a general way.

Mr. Garwood: I thought it was somewhat remote, but he has already stated——

Commissioner Harlan: You have corrected it, and the record will show you have given your view, and I think that is sufficient.

6788 Have you some other point you want to go into?

Mr. Garwood: No.

Mr. Walter: The panic of 1907 was very disastrous to the lumber interests.

Mr. Link: Yes, very disastrous.

Mr. Walter: And I believe you said that notwithstanding the hard times, a number of these men had to cut their lumber in order to meet the carrying charges, interest, and so forth.

Mr. Link: I suppose that is the case.

Mr. Walter: If a man had no interest charges to meet, he could have shut down and saved his timber?

Mr. Link: Yes, sir. There is not much in it by cutting it now.

Mr. Walter: You said our company got no division. You mean the Miller-Link Lumber Company?

Mr. Link: Yes, sir.

Mr. Walter: You do not understand that the lumber companies as such receive divisions, do you?

Mr. Link: The lumber companies?

Mr. Walter: Yes.

6789 Mr. Link: Well, now, I suppose they receive those through the incorporation of their tram roads, but my construction is and was, and my idea, of course that it is a mere matter of opinion, my impression and opinion has always been that in many instances those incorporated tram roads are merely part and parcel of the sawmill operation incident to it, and a necessary part of it.

Mr. Walter: You say your company got no part of it?

Mr. Link: No.

Mr. Walter: The lumber interests and your concern along it owned the Orange & Northwestern.

Mr. Link: At the time I was in the sawmill I did not have a penny of interest.

Mr. Walter: Well, other lumber people did?

Mr. Link: I think Mr. Miller owned one share. The Yoakum interests owned it, the Frisco people owned the Orange & Northwestern.

Mr. Walter: Were there any stockholders in the railroad company other than Mr. Miller who owned stock in lumber companies or timber lands along that line?

Mr. Link: I think we had a few directors there, and in order to

have a directorate they had a nominal amount of stock,
6790 one share, but I do not think there was five hundred dollars' worth all told owned outside the Yoakum people.

Mr. Walter: You are speaking after the Frisco took the road?

Mr. Link: Yes, sir.

Mr. Walter: I am speaking of the time the road was built.

Mr. Link: At the time the road was built it was built by a company organized there locally, and the saw mill people; that is Mr. G. B. Moore, who operated—by the way I do not know whether he built the road prior to the time he parted with his interests with the Lutcher-Moore people, or after.

Mr. Walter: It was built by lumber shippers along the railroad?

Mr. Link: Not entirely.

Mr. Walter: Not entirely, but built for that purpose?

Mr. Link: It was built from Orange to the Santa Fe to have shipments of lumber travel over it, and operate everything else, as a general railroad.

Mr. Walter: The large owners of that railroad when it was first built were men who were interested in the lumber traffic which moved over it?

Mr. Link: Yes, sir.

6791 Mr. Walter: That railroad received the division, did it not?

Mr. Link: I think it did.

Mr. Walter: How can you say your company received no divisions, and yet these lumber companies who have an incorporated railroad and receive it in substantially the same form as you receive it.

Mr. Link: If they have a road like the Orange & Northwestern as distinct from their manufacturing plant as the Orange & Northwestern was from ours, and operated as the Orange & Northwestern was operated and owned as the Orange & Northwestern was owned, they are certainly entitled to get a division, but their sawmill—if the facts will bear out the same as the facts will bear out the building and operation of the Orange & Northwestern, then there is no question but what they would be entitled to divisions. That is a question of fact, as I understand it, surrounding each particular proposition.

Mr. Walter: Now if you will just answer my questions, we will get along much faster.

Mr. Link: I want to make it plain.

Mr. Walter: That road, I believe you said, furnished a highway for the logs going into the mill.

6792 Mr. Link: No, it did not. I do not think there was a log hauled over that road four or five years after it was built.

Mr. Walter: Where did they come from?

Mr. Link: The logs came down the Sabine River at that time altogether.

Mr. Walter: How soon did you commence hauling logs over that part of the land extending from Buna to Newton?

Mr. Link: That road was constructed I think in 1900, and we started hauling logs there in 1905.

Commissioner Harlan: In the meantime they had hauled lumber?

Mr. Link: It was used as an outlet for lumber. I think the Lutcher-Moore Company had hauled a few logs, probably eighteen or twenty million feet prior to the time we hauled logs over it, but that is hearsay. There was not any logs hauled over it except the few months the Lutcher-Moore people used it, for five years.

Mr. Walter: But lumber did move out over it?

Mr. Link: Yes, sir.

Mr. Walter: Ninety per cent of the lumber came from mills who were interested in the railroad.

Mr. Link: I do not know that ninety per cent did, because I do not think it did. There were some mills that did not own
6793 any interest, the owners of the mills owned no interest in the roads, and of course they shipped more or less lumber over the roads.

Mr. Walter: But ninety percent was lumber?

Mr. Link: I suppose it was.

Mr. Walter: And a large portion of that 90 per cent was owned by interests who owned the railroad.

Mr. Link: A portion of it was. The Lutcher-Moore people at that time shipped over it to a large extent. I believe they owned a good big interest in the railroad. But at the time the Kirby Lumber Company operated a sawmill there, they owned, and they shipped over that road. The Bancroft Lumber Company shipped over it and the Kirby Lumber Company purchased the Bancroft plant, and the Orange Railroad Company owned no interest in the mill.

Commissioner Harlan: Was that your lumber Company?

Mr. Link: It was owned by the M. T. Jones interests at that time.

Mr. Walter: Do you know what percentage of the lumber that was shipped over this road prior to the time you indicate belonged to interests that were also part owners of the roads?

Mr. Link: No, it would require a detailed statement show-
6794 ing who shipped each car.

Mr. Walter: You have not any estimate?

Mr. Link: No.

Mr. Walter: Is it 50 or more than 50 per cent?

Mr. Link: I do not know; I should think it was more than 50 per cent anyway. If you will let me explain the number of mills at Orange it will give an idea. The Lutcher-Moore Company had two; the Kirby Lumber Company had one. These were of about the same capacity. The Orange Lumber Company had a big mill, and D. R. Wingate Lumber Company at that time had a mill, and all those mills, I assume, shipped more or less. I think probably Lutcher-Moore shipped a little bigger per cent than these other mills, but there was not more than half the lumber people in Orange who had any interest in this road at all. But it is hard to state when they are all shipping lumber to divide the per cent.

Commissioner Harlan: You have answered the question.

Mr. Walter: And the witness unduly prolongs his answers. I think we could save a great deal of time if he would answer responsively. At the time the lumber was moving over it the railroads received divisions?

Mr. Link: I guess they did.

6795 Mr. Walter: That movement of lumber was absolutely indispensible to reach the market?

Mr. Link: No, they could move it over the T. & N. O.

Mr. Walter: Could they reach the same market?

Mr. Link: I assume so.

Mr. Walter: When was the road extended to Newton?

Mr. Link: I think about four or five years later: I cannot give the year.

Mr. Walter: About 1905?

Mr. Link: I think the road was extended in about 1904.

Mr. Walter: Was there a mill at Newton?

Mr. Link: No mill there at that time.

Mr. Walter: Was there no mill along up that line?

Mr. Link: One of the Kirby Lumber Company's mills at Call.

Mr. Walter: Any log haul from this extension from Buna any time after it opened this extension from Buna to Orange?

Mr. Link: We hauled logs there, yes, sir.

Mr Walter: That was absolutely indispensible to get those logs to the mill?

Mr. Link: Yes, sir, it was necessary to haul those particular logs over that road.

6796 Mr. Walter: Was not that railroad then the plant facility?

Mr. Link: It was then owned——

Mr. Walter: I am asking whether it was a plant facility.

Mr. Link: I don't understand.

Commissioner Harlan: Let us confine what the relation to the plant was. By whom was the railroad owned at that time.

Mr. Link: It was owned by the Frisco interests, I think all the stock was owned by the Frisco except a few shares held by some other people.

Commissioner Harlan: But the extension was also made by the Frisco?

Mr. Link: The extension was also made by the Frisco, and paid for by Frisco interests.

Commissioner Harlan: Counsel's question is whether at that time the railroad was a plant facility, and if so, to what plant?

Mr. Link: I cannot understand that it was a plant facility at all. It was serving no particular plant, but everybody along the line.

Mr. Walter: That is your distinction?

Mr. Link: Yes, sir.

6797 Mr. Walter: If the railroad serves everybody along the line it is not a plant facility, and if it serves only the interest that owns it it is a plant facility.

Mr. Link: I——

Mr. Marble: It strikes me that question is for the Commission to decide.

Mr. Walter: There has been no objection to the witness answering——

Mr Marble: I am suggesting that we might get something of value out of the examination——

Commissioner Harlan: Well, the objection is made.

Mr. Marble: I am not objecting.

Commissioner Harlan: Then I will make the objection. That is a question for the Commission to decide. You may bring out the fact, and the fact seems to be that at this time the road was owned by the Frisco, and the extension of it was owned by the Frisco.

Mr. Walter: Does the ownership of the road make any difference in your judgment?

Commissioner Harlan: You need not answer that question. That is a matter of judgment. We cannot spend time on objections of that kind.

6798 Mr. Walter: I hope I shall not have to make them. I want to find out the fact as to the operation of this road. He has given his judgment not based upon particular figures, but his thought as to whether he was discriminated against. I want to ask him whether he thinks the ownership of the road makes any difference as to whether it is a plant facility or not, if he distinguishes on the plant facility.

Commissioner Harlan: I think that is a question of law, but still answer the question.

Mr. Walter: Do you think the ownership of this railroad makes any difference as to whether it is or is not a plant facility?

Mr. Link: Whether the ownership makes any difference?

Mr. Walter: Yes, as to whether it is or is not a plant facility.

Mr. Link: Yes, I do.

Mr. Walter: Now, explain.

Mr. Link: It does not necessarily make a difference. In other words I can own a sawmill and a railroad, and the railroad would not be a plant facility, while on the other hand I can own a sawmill and railroad, and it would be a plant facility.

Commissioner Harlan: Confine your answer to this road.

6799 Mr. Link: This road was not a plant facility, according to my understanding.

Commissioner Harlan: It was extended out into the woods by the Frisco?

Mr. Link: Yes, sir.

Commissioner Harlan: And then it commenced to haul logs to your mill?

Mr. Link: Yes, sir.

Commissioner Harlan: Did you regard it as your plant facility?

Mr. Link: No.

Commissioner Harlan: Or a facility attached to your plant?

Mr. Link: I certainly did not, because it was operated as a general common carrier.

Mr. Walter: I understood you to say that during the last year prior to your leaving the lumber company, all your logs for the Newton mill were brought in over spurs to the main line of the Orange & Northwestern.

Mr. Link: Yes, sir.

Mr. Walter: Now, then, did the Orange & Northwestern
6800 Railroad from the junction point with your spurs to the mill afford you a plant facility?

Mr. Link: They afforded us a plant facility, and we paid for it.
Mr. Walter: You paid for it?
Mr. Link: Yes, sir.
Commissioner Harlan: Suppose you had built the road yourself, would you regard it as a facility attached to your plant?
Mr. Link: If I had built the road and operated it as the Orange & Northwestern has been operating, I would not consider it a plant facility.
Commissioner Harlan: Explain why.
Mr. Link: Because that road has been operated—in the first place it was not built in connection with any sawmill, and did not bring logs to any particular sawmill, or take lumber from any particular sawmill; it did not run out into anybody's forest, or at least any particular timber holdings of any company.
Commissioner Harlan: You now refer to the whole road?
Mr. Link: I now refer to the whole road, yes, sir.
Commissioner Harlan: My question referred to the exten-
6801 sion by the Frisco from your mill into the woods you were lumbering. Suppose you had built that extension and had hauled your logs over it to the mill.
Mr. Link: I do not think you exactly understand the situation.
Commissioner Harlan: Perhaps not.
Mr. Link: It did not build from our mill into the woods. This road was first built from Orange thirty miles to a place called Buna.
Mr. Andrews: That was the connection with the Santa Fe?
Mr. Link: That was the connection with the Santa Fe. Then afterwards I think it was contemplated to build through to Marshall, two or three hundred miles; at any rate they built on to Newton, the county seat of Newton county. We had no mill at that time on that line. It was at the other end of the line. Afterwards when it was in operation for three or four years, we bought a mill at Newton, at the extreme other end of the road. We ran our spurs out about ten miles south of Newton and cut the timber, and logged it over the Orange & Northwestern to Newton, and paid them a trackage of probably fifty cents a train mile; I do not remember the exact amount, but we paid them, I think, 50 cents a train mile.
Mr. Walter: Whose engine hauled those logs?
6802 Mr. Link: Our engine.
Mr. Walter: That is the lumber company's engine?
Mr. Link: Yes, sir.
Mr. Walter: You simply had trackage rights?
Mr. Link: Yes, sir.
Mr. Walter: But you think the trackage rights did not change the situation at all as to whether the road over which they ran was a common carrier or not?
Mr. Link: I did not so understand. They furnished the pilot to run our trains over, and we had to pay them.
Mr. Walter: Who is president of the lumber company?
Mr. Link: Which lumber company?
Mr. Walter: The Miller-Link Lumber Company.
Mr. Link: Mr. Miller.

Mr. Walter: He is also president of the railroad?

Mr. Link: Yes, sir.

Mr. Walter: Does he have transportation over the various lines?

Mr. Link: I think so, yes, sir.

Mr. Walter: Are you connected in any way with the Orange & Northwestern?

Mr. Link: No, sir.

6803 Mr. Walter: Any lumber company?

Mr. Link: No, sir, not at this time.

Mr. Walter: At any time during the last year?

Mr. Link: No; I sold the last interest I had in the lumber business on the 20th of January, 1910.

Mr. Walter: Then you are not an intervenor in this case?

Mr. Link: No, sir, not at this time.

Mr. Walter: Mr. Miller, the president of that concern, would be much better able to give information as to all the facts in connection with his operation?

Mr. Link: He would, for the last year, for I do not know anything whatever of the operation in the last 12 months.

Mr. Walter: Is Mr. Miller here?

Mr. Link: I have not seen him.

Mr. Walter. Do you know whether or not he is here?

Mr. Link: I do not think he is.

Mr. Cowan: He was at New Orleans, but he is not here.

Mr. Walter: Is it not true that during all this time either by a contract or under an understanding, logs when hauled over the Orange & Northwestern to the mill when sawed into lumber, and the lumber shipped out were the basis of a refund for each three cars of logs in proportion to one car of lumber going out.

6804 Mr. Link: Was there an understanding of that character?

Mr. Walter: Yes.

Mr. Link: There was no understanding of that character not so far as I know, except this tariff I spoke to Judge Garwood about.

Mr. Walter: This tariff is the one which controls the operation, is it not?

Mr. Link: That tariff was in effect there for two or three years, it seems, and I did not know it.

Commissioner Harlan: That has been fully covered, except the element which counsel states, 3 to 1. If you want to press any question on that, go ahead, but otherwise this witness has fully explained the matter.

Mr. Walter: I want to ask whether or not, whenever a carload of lumber goes out, the refund is made on the inbound log rate on three cars.

Mr. Link: They never made us a refund of a penny.

Commissioner Harlan: Is that what the tariff meant?

Mr. Link: I think that is what the tariff meant.

Mr. Walter: That tariff is in effect to-day, is it not?

Mr. Link: That tariff was cut out a year before I sold out the company.

6805 Mr. Walter: Then if the tariffs in this record will show there has been a tariff during that entire time, you are mistaken about it?

Mr. Link: Yes. If it was not changed I am certainly mistaken, but that is my information, that the tariff was changed.

Mr. Walter: I want to ask you this question. You know about the Burrs Ferry, Browndel and Chester road?

Mr. Link: I was a director in that road once for a little while. I don't know much about it.

Mr. Walter: It was organized as a common carrier, and chartered as such?

Mr. Link: I understand so.

Mr. Walter: And was operated as such serving a quarry and certain lumber interests?

Mr. Link: I think so. I know nothing whatever of the operation of that road. I have never seen it and been on it.

Mr. Walter: During the time you were a director?

Mr. Link: I never attended a meeting while I was director, and consequently I don't know much about it.

6806 Mr. Walter: Well, for the purpose of this question, take my statement as correct. The road then grades an additional mileage into Browndel where Mr. Kirby has a mill. Mr. Kirby proceeds to ship over that line, and he owns the railroad. What change, if any, do you think that change of fact warrants in the rates and revenues of that road?

Mr. Link: I do not think his building that road, as I understand it, across from the T. & N. O. to the Santa Fe—that is, it was projected across there; it is about 12 miles built, and the rest is graded to Browndel?

Mr. Walter: Yes.

Mr. Link: You want to know my opinion there as to what would be the effect if he were to build into Browndel, and ship Browndel lumber——

Mr. Walter: Ship Kirby lumber, the owner of the railroad.

Mr. Link: I think he would have a perfect right to do it.

Mr. Walter: And on joint rates?

Mr. Link: Yes, sir.

Mr. Walter: Do you think there is anything immoral in that railroad receiving a division of the rates under those circumstances?

Mr. Link: No.

6807 Commissioner Harlan: Have you any questions, Mr. Marble?

Mr. Marble: No questions.

Mr. Cowan: The Browndel mill already has its plant facility?

Mr. Link: It already has its tram roads.

Mr. Cowan: And this could not be built in as a plant facility?

Mr. Link: Knowing the physical facts up there as I do, I would not consider this a plant facility at all.

Mr. Walter: Are you acquainted with the tram lines and their location to these various mills which you say you thought had advantages over you?

Mr. Link: In a general way I am, yes, sir.
Mr. Walter: What ones have you been over?
Mr. Link: What ones have I been over?
Mr. Walter: What ones have you been over prior to the time in 1907——
Mr. Link: You mean the plants that are receiving divisions?
Mr. Walter: Yes.
Mr. Link: I have not gone over the plants. I know the maps where they run into the woods in a general way, but I have never inspected their plants, because there is no way of getting to
6808 them unless you go out on their engines.
Mr. Walter: I understand you to say you do not know how these plant facilities were located at these various mills that you thought had an advantage.
Mr. Link: I know in a general way.
Mr. Walter: You say you have not seen them?
Mr. Link: I have seen some of them. I have never gone out and ridden over the tram roads going into the woods—I have on some of them.
Mr. Walter: You do not know what were lines having plant facilities and what were lines having main line connections?
Commissioner Harlan: It already appears he does not.

(Witness excused.)

6809 F. H. FARWELL was called as a witness, and having been duly sworn and examined, testified as follows:

Mr. Cowan: State your place of residence and your business and your experience in the business.
Mr. Farwell: Orange, Texas; I am a stockholder and director in the Lutcher-Moore Lumber Company at that point.
Mr. Cowan: How long have you been engaged in the lumber business?
Mr. Farwell: 17 years.
Mr. Cowan: What part do you look after?
Mr. Farwell: At the present time sort of all of it.
Mr. Cowan: Where is the spur owned by the Lutcher-Moore Lumber Company?
Mr. Farwell: In East Texas and West Louisiana.
Mr. Cowan: What is the extent of those spurs?
Mr. Farwell: You mean the acreage?
Mr. Cowan: Anyway you want to state it, yes.
Mr. Farwell: At Calcasieu and Vernon parishes in Louisiana we own about 100,000 acres, and about the same number in East Texas.
Mr. Cowan: Is that situated on or near the Sabine River in both cases?
6810 Mr. Farwell: Yes, sir, practically so, anyway.
Mr. Cowan: How far from Orange?
Mr. Farwell: Well, the lower end of our Louisiana land is approximately eighteen miles, that is the forest, but that of course was

cut over years ago. We are now operating about fifty miles from Orange.

Mr. Cowan: Now, as to the Texas lands, where are they located with respect to Orange?

Mr. Farwell: The lower edge of our Texas timber is in and around the town of Newton, the northern terminus of the Orange & Northwestern Railroad, in around there close by.

Mr. Cowan: That is how far?

Mr. Farwell: About sixty miles.

Mr. Cowan: Where are your mills?

Mr. Farwell: Orange.

Mr. Cowan: How many mills have you?

Mr. Farwell: Two.

Mr. Cowan: What is the aggregate capacity of the mills?

Mr. Farwell: About 350,000 feet daily.

Mr. Cowan: When were they located there?

Mr. Farwell: Lutcher-Moore's first operations in Orange were in 1877, and one of the mills is the outgrowth of that first plant.

6811 Mr. Cowan: Was there any railroad there then?

Mr. Farwell: I don't know. I have heard a great deal about the road from Houston in, but I do not know when it first went in.

Mr. Cowan: How do you get the logs to the mill?

Mr. Farwell: We tram them about 34 miles and dump them into the river at a little point we call Nibletts Bluffs, and then float or tow them from this point to Orange.

Mr. Cowan: What length of tram road do you operate?

Mr. Farrell: About 34 miles main line.

Mr. Cowan: How many miles of the logging spurs?

Mr. Farwell: That varies from five to seven miles, according to where we operate.

Commissioner Harlan: How long is the movement by water?

Mr. Farwell: About 18 miles.

Mr. Cowan: How long has the tram been there?

Mr. Farwell: It was started in 1886.

Mr. Cowan: And was built and extended in length from time to time?

Mr. Farwell: It extends in a northeasterly direction from time to time as we got into our body of timber.

6812 Mr. Cowan: Is your railroad incorporated?

Mr. Farwell: It is not.

Mr. Cowan: How much investment has your company in the railroad?

Mr. Farwell: We are carrying it on the books at the present time at around three hundred thousand dollars. I am not prepared to say what the investment is worth. I have never had it estimated.

Commissioner Harlan: The question is what it cost. Can you tell that?

Mr. Farwell: I cannot, no, sir.

Mr. Cowan: What sort of road is it?

Mr. Farwell: It is a good road. We only have 35 pounds steel

on the main line at the present time, but it has a good dump, and the bridges are very substantial, and the roadbed is a better roadbed than the Kansas City Southern, for it is an older roadbed, and kept up in better shape.

Mr. Cowan: Do you operate it for any other purpose than the sawmill interests?

Mr. Farwell: No, sir, excepting we—oh, we haul for the accommodation of wholesale houses in Orange, groceries and hardware
6813 and stuff like that for its stores at Stark, Louisiana, which is the crossing of the Kansas City Southern, and two or three little stores out in the woods.

Mr. Cowan: Any other sawmills than those at Orange?

Mr. Farwell: No other sawmills except those.

Mr. Cowan: Have you hardwood mills?

Mr. Farwell: Two cypress.

Mr. Cowan: Where?

Mr. Farwell: One at Donner, Louisiana, and one at Lutcher, Louisiana.

Mr. Cowan: Connected with this road?

Mr. Farwell: No, sir, it is over in the other part of Louisiana.

Mr. Cowan: How many trains a day do you run over this main track?

Mr. Farwell: Two.

Mr. Cowan: And one way is loaded and the other empty?

Mr. Farwell: No, two trains of loads go into the Bluff every day.

Mr. Cowan: But the cars have to go back?

Mr. Farwell: Yes, sir.

Mr. Cowan: What sort of locomotives and cars have you?

Mr. Farwell: On our main line we have a brand new Bald-
6814 win 50-ton locomotive, and we have five or six locomotives, but only keep two in the woods' end in use. The others are ready to use as we need them.

Mr. Cowan: Have you any railroad in Orange serving your mills that belongs to your company?

Mr. Farwell: Nothing but a little spur. Of course we own tracks into our mills, and the little spur tracks, perhaps nearly ¾ of a mile long from a certain point just above our upper mill around down to what we call our lower plant; we own that.

Mr. Cowan: Do you own the tracks connected with the main lines from which the lumber moves when it starts to market?

Mr. Farwell: As I say, at the upper mill we own the tracks in our yard, but at this mill the Southern Pacific engine goes in and takes the loads out, and at the lower one the Frisco goes in and takes the loads out.

Mr. Cowan: Do you get any division of rate from the Southern Pacific?

Mr. Farwell: Absolutely none from either.

Mr. Cowan: Your tracks connect with the Orange & Northwestern?

Mr. Farwell: Yes, sir.

Mr. Cowan: Do you get anything for hauling the merchan
6815 dise that you take to Stark?

Mr. Farwell: Oh, yes, we have three tugs, and about ten barges, and we have one little barge and one of the smaller tugs that makes trips two or three times a week as the merchandise is wanted up there, and we charge them about $7 a car or something like that for taking the stuff up and reloading it in our box car, and hauling it on up.

Mr. Cowan: Have you more than one box car?

Mr. Farwell: No.

Mr. Cowan: How are the main line engines equipped?

Mr. Farwell: The main line engine is equipped with air.

Mr. Cowan: Is it economy to operate a good track and good equipment, operating a railroad as you are, for the purpose you are operating it?

Mr. Farwell: Yes, sir, absolutely.

Mr. Cowan: Have you any damages to pay for injury to people or stock?

Mr. Farwell: Yes, sir, we do. There is more thoroughbred stock in that section than I ever thought existed.

Mr. Cowan: You are acquainted with the other plants in the country, sawmill plants and industry tracks?

6816 Mr. Farwell: Not in a specific way. I think I have learned more about railroads in the last couple of hearings at New Orleans and St. Louis than I ever did before.

Mr. Cowan: Do you know any other industry at which any other mill is logged partly by rail to the water, and then floated by water to the mill?

Mr. Farwell: There is one at Lake Charles, I believe; the Lake Charles Railway & Navigation Company, I believe they call it, that operates a railroad, and has a part of the Calcasieu River chartered as a common carrier and connecting with their mill.

Mr. Cowan: What do you mean by part of the Calcasieu River chartered——

Mr. Farwell: Well, I don't know just the point now, but they come down to a landing and the logs float from that landing to their mill. It is a Kelly-Webber mill, and I have been told, I have never been to the plant, but that the charter of the Lake Charles Railway & Navigation Company covers the whole proposition from the back end of their road down to their mill.

Commissioner Harlan: You do not mean they have laid a right of way in the river?

6817 Mr. Farwell: No.

Mr. Cowan: Do they get any division of the rate in that case?

Mr. Farwell: I don't know; I am not familiar with that feature.

Mr. Cowan: With what railroad do they connect at Lake Charles, or do you know?

Mr. Farwell: I do not care to say; the record would show that, and the rates and division sheets. I am not familiar.

Mr. Cowan: Does this sawmill company—I am asking for information now, I do not know as it has any relation——

Mr. Garwood: Can we not get it from somebody who knows?

Mr. Walter: It is in the record here.

Mr. Cowan: Does that sawmill interest have any relation to any of these big interests which have testified, may be it is one of the Long-Bell companies?

Mr. Walter: No, it was fully disclosed by the president of that road.

Commissioner Harlan: The record will show it.

Mr. Cowan: You get no division, you said, from either road?

Mr. Farwell: That is true.

6818 Mr. Cowan: Does any one else get any division?

Mr. Farwell: I do not know anything about the operations of the other mills. They are——

Commissioner Harlan: That is enough, if you do not know.

Mr. Cowan: What is the extent of farming or other business in the localities to which your road extends?

Mr. Farwell: Very little. I might answer that the reason of that is that the theory under which we are operating our forest is to save the little timber, and we have about 75,000 acres of cut-over land that at the present time will log reasonably good logs at four or five thousand feet to the acre, and the policy of our company is to hold that land and log it at some future time. That is why there is no farming in that section. We will not sell the cut-over land.

Mr. Cowan: You have heard the testimony of Mr. Kirby in regard to the method, manner and places of marketing the lumber in the general market. Is that substantially your view about it?

Mr. Farwell: I think so.

Mr. Garwood: Well, your Honor—that is a "me too" proposition.

6819 Commissioner Harlan: We will strike that out.

Mr. Cowan: Then you may state generally at what points in the United States you market your lumber.

Mr. Farwell: In the Northwest, in Texas, and through this portion of the Central Freight Association territory. Then we do quite a substantial business coastwise from Wilmington north.

Mr. Cowan: What is your situation respecting that latter traffic?

Mr. Farwell: The water traffic?

Mr. Cowan: Yes.

Mr. Farwell: We are on the Sabine River about thirty miles from Sabine Pass, and the Sabine River is forty or fifty feet deep, and we have a line of barges and our own tugs, and we load our outbound cargoes on lighters and put them alongside boat at Port Arthur or Sabine Pass; and we have been in that trade substantially for several years.

Mr. Cowan: Why don't you market all your lumber that way?

Mr. Farwell: We would if we could.

Mr. Cowan: You cannot get the sale for it?

Mr. Farwell: There are certain grades of stuff we cannot sell in a foreign market. They demand certain things.

Mr. Cowan: You do not select your trees out of a forest, you just log as you come to it?

Mr. Farwell: Our loggers have instructions as to how small a tree they must cut. When they have reached that minimum size they cut everything above it that is purchasable.

Mr. Cowan: What proportion of that timber in your case makes the lumber which would be exported, or which would go in the export trade?

Mr. Farwell: Our last year's sales show about thirty-three per cent of our product manufactured went by water.

Mr. Cowan: How do you prepare it for that purpose for export? I have heard they fixed it in some different form to what they do cutting into sizes of lumber.

Mr. Farwell: That would be a long story, Judge.

Commissioner Harlan: Then we won't go into it if it is not necessary.

Mr. Cowan: But they do ship very largely square timber.

Mr. Farwell: Yes, you have to cut your timber differently than you do your export stuff and all that sort of thing.

Mr. Cowan: Do you know whether or not in marketing your lumber in various parts of the United States that you are put at a disadvantage with those who get divisions of rates
6821 from your locality?

Mr. Farwell: Well, that is a much mooted question.

Commissioner Harlan: Is it a mooted question in your own mind?

Mr. Farwell: My theory of that is this: It is the man that makes the price that gets the business, and my opinion is that the man that has a chance at an advantage in some other way can, if he wants to, make the lowest price, which we all have to meet if we want to sell lumber.

Mr. Cowan: And it does not matter in what way he has that advantage?

Mr. Farwell: No.

Mr. Cowan: Then you have an advantage on the water transportation?

Mr. Farwell: Yes, sir.

Mr. Cowan: That is an advantage that arises by reason of your situation?

Mr. Farwell: Yes.

Mr. Cowan: Does your company operate on borrowed capital?

Mr. Farwell: No.

Mr. Cowan: Then you might have an advantage over somebody who might have to borrow to operate?

6822 Mr. Farwell: Oh, yes; if you want to look at it in that light. We have this timber land. Mr. Lutcher bought it years and years ago, when, in fact, a man who owned an acre of yellow pine lumber was looked upon with suspicion, because the more he owned, the poorer he was supposed to be.

Mr. Cowan: Now he is suspected of getting rebates.

(No reply.)

Mr. Cowan: Now, Mr. Farwell, is it or not your opinion that

transportation charges should be so made as to take care of the advantages and disadvantages which might arise by reason of location, situation, capital and the like?

Mr. Farwell: Yes, sir.

Mr. Cowan: Make transportation charges to equalize that?

Mr. Farwell: Why, I don't catch exactly your question.

Mr. Cowan: Well, you do not mean that the freight rate ought to take care of the differences in advantages between you and any other one?

Commissioner Harlan: I do not think we will go into that.

Mr. Cowan: I will withdraw that. I know that as well as anybody, and I don't suppose anybody ever attempted to do it. You have given what you carry your road at, and you said you could not give the cost, but can you state, did that cost cover the
6823 equipment?

Mr. Farwell: I said around $300,000 is what we are carrying our road and equipment at. It is a very nominal figure.

Mr. Cowan: What do you think it would be worth to construct it, estimated on what it actually costs you now to extend your main line from time to time?

Mr. Farwell: If you mean calculating the equipment, I should say it would be worth around $8,000 to $10,000 a mile, something in that neighborhood.

Mr. Cowan: I think there are no other questions, unless there is something you want to state.

Mr. Farwell: I do not know. The ground has been pretty well covered.

Mr. Coleman: I would like to ask, prior to the time that the Orange & Northwestern connected up with the Santa Fe, you then had but one road out, I understand?

Mr. Farwell: Yes.

Mr. Coleman: And that was the Southern Pacific connection, or the Houston & Texas Central?

Mr. Farwell: The T. & N. O.

Mr. Coleman: Prior to the time the connection was made, what was the car situation at Orange?

6824 Mr. Farwell: Well, that was one reason why the mills and people at Orange built the Orange & Northwestern, was to get relief from the car situation. Orange in a way was sort of a whistling station on the Southern Pacific, so far as empties were concerned.

Mr. Coleman: In other words, they would not furnish you with sufficient cars?

Mr. Farwell: We were a one-line point.

Mr. Coleman: That is all.

Cross-examination:

Mr. Garwood (handing paper): Will you kindly indicate to me there, there is Orange and there is Sabine, and just run a line there and show me how you get in there.

Mr. Farwell: Just about like that (indicating). I have a map here which I will give you, which will show it.

Mr. Garwood: If you will.

(Witness explains map to Mr. Garwood.)

Mr. Garwood: I understand you transport your logs over your tram line by cars and locomotives down to Nibletts Bluff and there put them in the river and *two* them down to your mill at Orange.

Mr. Farwell: Yes.

6825 Mr. Garwood: Now, is the cost of your barge line also figured into the cost of your transportation facilities which you gave to counsel?

Mr. Farwell: No, that is carried in what we call our river account?

Mr. Garwood: You do charge for the transportation services on your barge line, as I understand?

Mr. Farwell: Yes, if any stores up there want anything, we charge them so much for this barge load, which is substantially a good big carload of material.

Commissioner Harlan: Do you make any charge on the rail line?

Mr. Garwood: We will charge for a full load say $10 and credit the barge line with half and the railroad with half.

Commissioner Harlan: You are referring now to outside tonnage?

Mr. Farwell: I am referring now to outside tonnage of the wholesale grocery house or hardware or foundry.

Commissioner Harlan: Are you referring to your own logs, do you make any charge against your mill?

Mr. Farwell: Yes, sir, we charge $1.50 a thousand to the milling company for the handling of these logs from the back end

6826 of the spurs down to where they are dumped into the river.

Mr. Garwood: So you keep separate accounts, then, for your railroad and for your mill?

Mr. Farwell: Oh, absolutely; yes, sir. The saw milling interests or our incorporation papers do not take into account the timber end of it at all. The Lutcher-Moore Mill Company has an incorporation and owns the mill.

Mr. Garwood: And you have another corporation?

Mr. Farwell: Simply a partnership that owns the railroad and timber land.

Commissioner Harlan: It is practically the same investment?

Mr. Farwell: Yes, sir.

Commissioner Harlan: That is also true of the water line?

Mr. Farwell: Yes, sir.

Mr. Garwood: The same parties own the stock of the corporation which owns the mill?

Mr. Farwell: Yes, sir; absolutely.

Mr. Garwood: And the same parties as partners own the railroad and the barge line?

Mr. Farwell: That is true.

6827 Commissioner Harlan: And the timber?

Mr. Farwell: That is true.

Mr. Garwood: Now, you operate the transportation line in so far as the barges are concerned?

Mr. Farwell: Oh, yes, you might call it so.

Mr. Garwood: Can anybody who wants to ship up there?

Mr. Farwell: Yes, sir, we take anything that is offered.

Mr. Garwood: Then you are a common carrier as to that?

Mr. Farwell: Well, in a way, yes.

Mr. Garwood: You are a common carrier and you charge for your services?

Mr. Farwell: Yes.

Mr. Garwood: Well, now suppose one of these Orange merchants wanted to ship over some point on your logging road, would you do that service for him too?

Mr. Farwell: As I explained to you, there is a store at Stark, Louisiana, two of them. There is a store or two in here somewhere, and at this point here and there, and we are not interested in those stores at all, but whatever goes up there for them, we haul for them.

Mr. Garwood: What is your charge for your service from
6828 Orange up to the stores on your line?

Mr. Farwell: I just stated we charge them—we have no regular rates, but for this carload we will say we charge them $10, covering the barge and the rail line.

Mr. Garwood: How do you enter that on your books?

Commissioner Harlan: He has stated he set it half to the rail line and half to the water line.

Mr. Garwood: You then carry separate accounts for the barge line and for the rail line?

Commissioner Harlan: He so stated, and for the lumber company, all separate.

Mr. Garwood: Do you file tariffs covering these shipments?

Mr. Farwell: We do not.

Mr. Garwood: That is an interstate proposition, is it not; you start at Orange and go up a navigable river, and you are under the same control and you transport over into Louisiana. You say you transport for anybody that asks you and you charge for it. Are you not in a better fix than the man who has got to publish his tariff——

Mr. Coleman: Wait a minute. If your Honor please, I think that if there is any limit, it has been reached in that question.
6829 Mr. Garwood is trying to make the witness say that at law what he does makes him a common carrier. It does not at all. He is in precisely the same position as a man that has a team——

Commissioner Harlan: You are trying to make out that he is not?

Mr. Coleman: No, but what good will it do to get the opinion of the witness on it?

Commissioner Harlan: I think your objection is well taken. The whole field is open to Judge Garwood to argue on the statement made by the witness.

Mr. Garwood: I do not want to argue the facts or the law with the witness.

Commissioner Harlan: Let us get to some other field.

Mr. Garwood: I do get the fact that he is hauling for the public and makes a charge——

Mr. Coleman: He has not stated that.

Mr. Cowan: He said he carried what they offered him; some merchants down there.

Mr. Garwood: I will not stop to dispute that with counsel.

Commissioner Harlan: Take up some other line, then, Judge Garwood.

6830 Mr. Garwood: What is this town here (indicating). You deliver here at Nibletts Bluff?

Mr. Farwell: Yes. Like everybody, we have hopes, and at our last directors' meeting we decided to put surveyors into the field and survey that line. We have come to the conclusion that logging on the river is too expensive and we are going to quit it.

Mr. Garwood: What proportion of your business is export?

Mr. Farwell: I stated about 33 1/3 per cent of our business.

Mr. Garwood: Do you ship to New Mexico?

Mr. Farwell: Very little.

Mr. Garwood: Do you ship to Kansas and Oklahoma?

Mr. Farwell: Yes.

Mr. Garwood: Have you prepared a statement showing by states the number of thousand feet or number of cars that you shipped out during the past year?

Mr. Farwell: Yes.

Mr. Garwood: Have you that here?

Mr. Farwell: Yes.

Mr. Garwood: Will you let me see it, please?

(Witness produces paper.)

6831 Mr. Farwell: That simply shows the cars per month and the road over which they went, and it shows the total number of cars, but does not show the total cars by states. I have no reason why it does not, except that I only fixed up these statements the afternoon I left for St. Louis and have not had a chance to look at them.

Mr. Garwood: Without pausing to go into what the statement shows, will you put that in evidence as part of your cross examination?

Mr. Farwell: Yes.

Commissioner Harlan: I would like to have the map go in too, if you will.

(The map so offered and identified was received in evidence and thereupon marked Exhibit No. 1, witness Farwell, received in evidence January 31, 1911, and is attached hereto.)

(The statement so offered and identified was received in evidence and thereupon marked Exhibit No. 2, witness Farwell, received in evidence January 31, 1911, and is attached hereto.)

Mr. Garwood: You have been asked in this case to prepare a statement showing your cost of production and also your average selling price, both for all grades of lumber and for specific grades. Were those statements prepared?

6832 Mr. Andrews: Just a moment. If the Commission please, we deem it immaterial whether they were prepared or not, as the Commission has uniformly ruled they would not be admitted, and we will make the same objection.

Mr. Garwood: I make it for the purposes of the record.

Commissioner Harlan: And the objection is sustained.

Mr. Garwood: And I ask him if they were prepared.

Commissioner Harlan: That question may be answered, whether they were prepared.

Mr. Garwood: Were they prepared?

Mr. Farwell: They were.

Mr. Garwood: Have you got them here?

Mr. Farwell: Yes, sir, I have them with me.

Mr. Garwood: I now ask that they be produced.

Mr. Andrews: We make the same objection.

Commissioner Harlan: The objection is sustained.

Mr. Garwood: To which we except. Now, for the purpose of the record, I ask the witness, and of course you need not answer until after objection has been made, what was your average selling price for all grades of lumber, and separately for each grade during the past calendar year, and also what was your average production cost?

6833 Mr. Andrews: Same objection.

Commissioner Harlan: The objection is sustained.

Mr. Garwood: By selling price I mean as before, at the mill and with the freight rate excluded.

Commissioner Harlan: The objection to the modified question is sustained.

Mr. Garwood: Exception is taken. Now, for the purpose of the record, without bringing Mr. Link back, will you consider that the same question has been asked him for the Miller-Link Company?

Mr. Andrews: We will consider they have been asked, but as a matter of fact, Mr. Link has not any papers here about it. You can consider that the questions have been asked him.

Commissioner Harlan: The objection and ruling go to those same questions.

Mr. Cowan: Let it be understood that you have made that request of all these different industries, and that the right to it has been denied by the ruling of the Commission.

Mr. Garwood: Yes.

Commissioner Harlan: Therefore the questions need not be again put. It will be understood that that exception is saved to all the witnesses who may hereafter testify.

6834 Mr. Garwood: And in that same connection we make the offer that we stated yesterday to produce from the interest mentioned the same figures we would call upon the intervenors to introduce on this subject.

Mr. Andrews: The Commission understands that we have no objection to their offering that testimony if they wish to.

Mr. Cowan: But he offered it yesterday on the condition that we were required to furnish it, and we declined to comply with the condition, but there is no objection to their putting it in if they want to.

Mr. Garwood: Of course it is not material, if the other is not put in.

Commissioner Harlan: Your offer yesterday, then, was to prove by other sources the general cost, not the particular cost?

Mr. Garwood: Not his cost, no, but our own cost for each particular one.

Commissioner Harlan: In a general way?

Mr. Garwood. Yes, but giving definite figures for definite interests.

Mr. Andrews: Yesterday the offer was made specifically that for a substantial number, that was the term, if I recall it.

6835 Mr. Garwood: Yes.

Mr. Andrews: For a substantial number of those receiving divisions, the specific prices would be put in, about which he was asking the intervenors?

Mr. Garwood: Yes.

Mr. Andrews: We understood that was offered only upon the condition that the intervenors should be first examined upon the proposition and disclose their testimony, and the point that I rose to make a moment ago is that we still wish to be understood as not objecting to their offering their testimony, if they want to do it.

Commissioner Harlan: As a part of their case, and as a part of the condition referred to yesterday?

Mr. Andrews: Yes.

Commissioner Harlan: I think the record is clear on that point.

Mr. Cowan: I would like to make the suggestion by saying that they can prove the selling prices at places where they do not get divisions, or where they get one, two, three, four and five cents, and if the object of the evidence which they ask us to put in is to show what effect divisions have on the average price at the places where they sell the lumber or at the mill where they make it, they

6836 have got within their own power to show what it is in cases where they get divisions and do not, and in cases where they get little divisions and big divisions. I make that suggestion so that it may come into the record at this time.

Mr. Garwood: Thank you, sir.

Commissioner: Are there any further questions.

Mr. Garwood: I have no further questions.

Mr. Coleman: On this general subject of saving exceptions and making offers, counsel for the tap lines seem to be preparing a record. Now, I think perhaps it should appear just why the offers are refused and why the Commission refuses to make the private interests produce their private records or in other words, put it on certain grounds.

Commissioner Harlan: Well, the view of the Commission, so far

as I spoke for the Commission in ruling on these questions was that the injury was irrelevant to the issue now before us.

Mr. Coleman: And that applies to every offer?

6837 Commissioner Harlan: So far as I now recall them. There were some other offers on other questions.

Mr. Cowan: And the objection being sustained, that covers the entire range of the subject. If it should be excluded for any subject, it would be proper to exclude it.

Commissioner Harlan: I think it is now clear.

Mr. Walter: What is the extent of the production of your mills?

Mr. Farwell: About 60 million feet annually.

Mr. Walter: You spoke of several concerns up on your line of railroad. They furnish supplies for the men engaged in work there in your timber operations?

Mr. Farwell: Only one of them does. The balance of them are little country stores.

Mr. Walter: Then there is a farming community in there?

Mr. Farwell: Oh, more or less; it does not amount to much.

Mr. Walter: I do not know whether or not I have got the correct impression, but I understand you were discriminated against by reason of divisions given to connecting lumber interests; is that it?

Mr. Farwell: I do not know that I stated it in just those words. I believe I remarked that our experience in the sale of lum-

6838 ber was that the man who could make the lowest price usually got the business, and——

Mr. Walter: That is only one small element in making the price, the freight rate or the division of the freight rate.

Mr. Farwell: The freight rate shows the delivering end of the matter and is an important factor in the sale of the lumber.

Mr. Walter: You receive some revenue for that haul of that material?

Mr. Farwell: Yes, sir.

Mr. Walter: Do you take that into consideration in figuring the cost of your lumber?

Mr. Farwell: We do not. The——

Mr. Walter: You also go into the lumber market in competition with some of the intervenors in this case, do you not?

Mr. Farwell: I think we all find each other there.

Mr. Walter: Do you find the competition any keener and stronger between the intervenors in this case and yourself and the so-called tap line interests and yourself?

Mr. Farwell: I could not distinguish; neither could any other manufacturer distinguish one competitor from another in the open market.

Commissioner Harlan: If you received a division and he

6839 did not, could you draw a distinction then?

Mr. Farwell: I believe I remarked a little while ago——

Commissioner Harlan: I am talking now about your competitors in the country that are supposed not to get any allowances, and operating under the same general conditions and running their mills under the same general conditions. Now, if you were getting

an allowance and he did not know it, you could then enter the market in a way that would make a distinction in your mind, could you not?

Mr. Farwell: That is my opinion. If I had a division on our road or on our log haul, and if I wanted to—this is my idea about it—if I wanted to and the business was such that I wanted it, it would be immaterial whether I simply cut my price or simply threw away all or a portion of that division, so long as I maintained my mill value.

Mr. Walter: Then whether or not that division is taken into account, is to be determined by the figuring as to the sale price?

Mr. Farwell: As to the sale price.

Mr. Walter: And the only way to tell is to know the sale price?

Mr. Farwell: I suppose so.

6840 Mr. Walter: Were you connected with the Orange & Northwestern?

Mr. Farwell: Personally, no.

Mr. Walter: Did you have any relation to it?

Mr. Farwell: None whatever, excepting Mr. Link told about all the story of the company's relation to it.

Mr. Walter: Were you an officer?

Mr. Farwell: No.

Mr. Walter: Were you an officer in any railroad?

Mr. Farwell: None.

Mr. Walter: Any connection with any railroad now?

Mr. Farwell: None whatever, except I say I am really tentatively the manager of our tram road.

Mr. Walter: Were your superiors connected with the Orange & Northwestern?

Mr. Farwell: They were.

Mr. Walter: And at the time the operation went along, the Lutcher-Moore mill, you were then connected with the Lutcher-Moore mill?

Mr. Farwell: Yes, sir.

Mr. Walter: At that time was the railroad getting a division of the freight rates?

6841 Mr. Farwell: I presume so.

Mr. Walter: And the interests that were interested in the railroad were interested in the lumber mill?

Mr. Farrell: Now, don't get that confused as to the Lutcher-Moore railroad. It was built by the Orange interests for relief to get an outlet on another line of railroad, and we built some thirty-two miles northwest to Buna.

Mr. Walter: "We;" who?

Mr. Farwell: I say "we," the Orange interests, Mr. L. Miller, who was president of the Orange & Northwestern Railroad was at this time operating a store and I think a shingle mill. Mr. Alexander Gilmer was operating a saw mill in Orange at that time. We were operating one, and there was a rice mill and a foundry, and I know in particular a bank, all of which joined their interests together and

built this road, with this understanding, that it was to be operated as a railroad.

Mr. Walter: Common carrier?

Mr. Farwell: Yes, sir. Then later, in 1901, when the Lutcher interests purchased the Moore interests in our end of the company, Mr. Moore was the practical—he owned a majority of the stock of the Orange & Northwestern individually.

6842 Mr. Walter: That road then was constructed by shippers?

Mr. Farwell: By shippers.

Mr. Walter: Operated as a separate corporation?

Mr. Farwell: Yes, sir, absolutely.

Mr. Walter: Received divisions of the rate?

Mr. Farwell: I suppose they did.

Mr. Walter: Did those shippers receive any part of that freight rate?

Mr. Farwell: They never did.

Commissioner Harlan: Was the banker a shipper?

Mr. Farwell: No, but he was simply interested in the building of this road for an outlet to help the town out. It was a town road; it was not an individual road.

Mr. Walter: The great tonnage was lumber, was it not?

Mr. Farwell: Yes, sir.

Mr. Walter: Do you receive any logs over that road?

Mr. Farwell: No. Mr. Link testified, and I think substantially correct, when we purchased what we now call our lower mill in 1901 or 1900, we at that time had a contractor in our forest, and in order to just simply keep on operating that mill and not shut it

6843 down until we could get equipment, we sent our contractor over on the Orange & Northwestern, where we could buy some timber right alongside the railroad quick, and he logged that to our mill and kept it going until we could buy additional equipment and get into our own forest; that is all.

Mr. Walter: The Orange & Northwestern in furnishing those logs to your mill was just as essential to their milling and manufacturing as is your present tram line in Louisiana to your milling operations?

Mr. Farwell: Why, yes, and no. It was, because we used it. We could just as well, if we had wanted to, have bought or borrowed logs right there in the boom in Orange and continued our operation. We were not compelled to go onto that line of railroad to get those logs.

Mr. Walter: But as a matter of fact the railroad did furnish you the facility for getting those logs to the mill?

Mr. Farwell: Oh, yes.

Mr. Walter: And still furnishes the Miller-Link logs?

Mr. Farwell: Yes, they haul them over that road.

Mr. Walter: Would you say, speaking as a man who has had great experience in this matter, that these facilities afforded by the Orange & Northwestern in hauling those logs to that mill,

6844 were any more or any less a plant facility on that business than is your own railroad in hauling the logs over your present operation?

Mr. Andrews: It seems to me that is the very point for the Commission to determine from the physical facts.

Commissioner Harlan: We will take less time, perhaps, if the witness will answer, if he has any opinion.

Mr. Farwell: I would not care to say.

Commissioner Harlan: That is enough.

Mr. Walter: Why would you not care to say?

Mr. Farwell: It goes into matters I am not very familiar with——

Commissioner Harlan: That is enough. You have given a sufficient reason.

Mr. Walter: As a matter of fact, you are in charge of the part of the Lutcher-Moore interests that get the logs to the mill, are you not?

Mr. Farwell: I look after it from the log end until make our collections; yes, sir.

Mr. Walter: Let me ask if there is anybody better equipped to determine that question than Mr. Farwell.

Mr. Farwell: I started to say——

6845 Commissioner Harlan: Never mind. You need not answer that question.

Mr. Walter: You are an intervenor in this case?

Mr. Farwell: Our company is.

Mr. Walter: We want to point out that we think this is a most material question.

Commissioner Harlan: I suppose the questions mean that, but I have ruled them out.

Mr. Walter: We save an exception. Why did you not incorporate that line of road?

Mr. Farwell: Well, our attorneys advised us not to.

Mr. Walter: For what reasons?

Mr. Farwell: Well, I cannot tell you their reasons. They were the legal end of it. The prime reason was, it was their opinion, or so I understood at least, that it would be in a measure considered as a rebate, and we had better not do it.

Mr. Walter: Is that the reason?

Mr. Farwell: That is absolutely the reason.

Mr. Walter: Why was the Orange & Northwestern incorporated?

Mr. Farwell: I haven't any idea. As I explained a while ago, it was a town road and went out to connect with other trunk

6846 lines for the purpose of giving the town relief on outbonud movements of lumber or anything.

Mr. Walter: Do you understand there are tariffs in effect which allow a refund on logs hauled to your mill on the Orange & Northwestern?

Mr. Farwell: You mean the Lutcher-Moore?

Mr. Walter: Logs hauled down there, brought in by the Orange & Northwestern?

Mr. Farwell: I think there was.

Mr. Walter: And is now?

Mr. Farwell: I am not interested in it, and do not know. We haul no logs over that line.

Mr. Walter: You said the Orange & Northwestern hauled the logs for you that you bought up on that line.

Mr. Farwell: I said for a few months back we sent our contractor in there and got logs out on that. Just offhand, I would say that that refund was not in there at that time, but I would not care to say positively. But I know we got nothing.

Mr. Walter: That is, the lumber mill got nothing?

Mr. Farwell: The lumber mill got nothing.

Mr. Walter: You understand in all these cases that the
6847 railroad itself is the party and not the shipper, to the tariffs.

Mr. Farwell: I understand, but I would like to have you understand that the Lutcher-Moore Company, with whom I am connected, were not the controlling factor in the railroad.

Commissioner Harlan: Are you through with the witness?

Mr. Walter: Yes.

Mr. Marble: What is the name of this road which extends from the river into the forest?

Mr. Farwell: The Gulf, Sabine & Red River Railroad.

Mr. Marble: Are you on your way to Alexandria with that road?

Mr. Farwell: Mr. Fleishel has told you so, and I should like to say——

Mr. Marble: If you will pardon me one minute, I will say for the Commissioner, this matter came out at a hearing at which he was not present, that the Gulf & Sabine River Railroad has put in evidence of its lines, which shows lines constructed and intermediate connections to be constructed, which indicate that that line is to run from Orange to Alexandria, and the examination developed that the tracks of this witness' company were shown on that map
6848 as connected lines, and the explanation was made that they expected to connect up this road and make it reach from Orange to Alexandria. What about that plan?

Mr. Farwell: I can make a little explanation which may clear that up. Ever since I have been with Lutcher-Moore I have had drummed into me the fact that that road was going to Alexandria. It travels in a northeasterly direction, and we own a large body of timber in Vernon Parish immediately above and this road will ultimately serve the mills through this forest in Vernon Parish of some 70,000 acres, and in going there, we will cross the Santa Fe Railroad, and Mr. Fleishel, of the Gulf & Sabine, has spoken to us once or twice regarding the connecting up of his property and ours for the purpose of getting better facilities, and by that the town of Orange would get a substantial return, because we have hopes of his making Orange the southern terminus for his export movements, and it would not be such a bad proposition.

Mr. Marble: Is it a live proposition now or simply——

Mr. Farwell: Oh, no; we have just talked it over; there has nothing been done about the matter.

Mr. Walter: You have had it up in your directors' meet-
6849 ings, I suppose?

Mr. Farwell: Not that part of it. We did the building of

the southern and for about twelve miles, because the logging by the river we think is getting too expensive to operate.

Mr. Walter: You say your directors have not ordered the connecting up with the other road?

Mr. Farwell: No; there is nothing definite. We just have hopes.

Mr. Walter: It was discussed in an official manner, was it not, at your directors' and stockholders' meetings?

Mr. Farwell: This northern end may have been discussed, but we were more interested in the southern end, on account of the expense of logging by the river.

Mr. Walter: You would expect to get a division if you got that in?

Mr. Coleman: Oh, I object.

Mr. Farwell: Well, that is in the future.

(Witness excused.)

Whereupon, at 12:45 P. M., a recess was taken to 2:00 P. M.

6850 After Recess.

2:00 P. M.

Before John S. Burchmore, Special Examiner.

Examiner Burchmore: In the last question which was asked Mr. Farwell I do not know that I understood his answer, and I will ask the stenographer to read it.

(The question and answer were read as follows:)

"Mr. Walter: You would expect to get a division if you got that in?

"Mr. Farwell: Well, that is in the future."

Examiner Burchmore: Do you remember the question you were asked, if you would expect to get the division, and you said that was in the future?

Mr. Farwell: I don't quite catch the drift of it.

Mr. Andrews: To refresh your memory, they were asking you about building your road and connecting up with Mr. Fleishel's road, and he said if this was done, did you expect a division.

Mr. Farwell: You want an interpretation of that?

Examiner Burchmore: You said that was a thing for the future. Is it settled or agreed?

6851 Mr. Farwell: In no way, shape or form. Just to be frank with you, at our directors' meeting when the extension of the line from our present southern terminus to Orange was taken into consideration we decided to get estimates on what it would cost to build it, and the whole matter would hinge entirely upon what the decision of the Interstate Commerce Commission was on this subject of tap line divisions.

Mr. Cowan: If they say it is lawful and you are entitled to it, you want to go after it?

Mr. Farwell: Absolutely.

Mr. Cowan: And there are no strings upon you in getting it?

Mr. Farwell: Nothing in the world.

Mr. Walter: In other words, if the Commission does not interfere, you propose to develop that country?

Mr. Farwell: Yes, sir.

Mr. Cowan: No, no, wait a minute. You did not watch that gentleman.

Mr. Farwell: What was the question?

Mr. Cowan: Read the question and answer.

(The question and answer were then read.)

Mr. Walter: Now, you would not change that answer
6852 would you?

Mr. Farwell: I could expand on it, if you would like.

Mr. Cowan: What do you mean by developing the country, if the Commission does not interfere?

Mr. Farwell: That word "interfere" perhaps should not be in the question.

Mr. Cowan: Well, of course not.

Mr. Farwell: But if they are going to legalize tap line divisions, we expect to extend our road and get what we are entitled to.

Mr. Cowan: And all you can?

Mr. Farwell: Certainly.

Mr. Walter: You do not want anything you are not entitled to?

Mr. Farwell: No, sir, not a thing in the world.

Examiner Burchmore: Call your next witness.

6853 H. S. FILSON was called as a witness, and having been duly sworn, testified as follows:

Mr. Cowan: Where do you live?

Mr. Filson: My home is in Houston, Texas.

Mr. Cowan: What business are you engaged in?

Mr. Filson: In the manufacture of lumber.

Mr. Cowan: And what is the name of the company which you are interested with and represent?

Mr. Filson: The Alexander Gilmer Lumber Company.

Mr. Cowan: How long has that company been engaged in the manufacture of lumber?

Mr. Filson: Since 1905.

Mr. Cowan: Where are the plants of the company now located which are in operation?

Mr. Filson: The office and principal plant is maintained at Remlig, Jasper County, and the other mill is at Jasper, Jasper County, Texas.

Mr. Cowan: Have you a map of the plant, or any sketch of the situation on your tracks?

Mr. Filson: No, I have not with me.

Mr. Cowan: On what railroad; that is, what trunk line, are you located?

6854 Mr. Filson: The Center branch of the Santa Fe.

Mr. Cowan: That is not on the main line of the Santa Fe?

Mr. Filson: No, sir; I do not think they consider it a main line. It is a branch running from Beaumont north.

Mr. Cowan: That branch of the Santa Fe runs from where to where?

Mr. Filson: It runs from Beaumont north now, I believe to Long View.

Mr. Cowan: Where is your mill situated and each of your mills, with respect to the Santa Fe tracks?

Mr. Filson: Our Jasper mill is on the edge of the town of Jasper and about three-quarters of a mile west of the Santa Fe track. Our Remlig mill is seventeen miles north and about two miles east of the Santa Fe track.

Mr. Cowan: You have timber in both localities?

Mr. Filson: What is the extent of your timber holdings?

Mr. Filson: We have uncut something like 40 or 45,000 acres.

Mr. Cowan: Yellow pine?

Mr. Filson: Yes, sir.

Mr. Cowan: Taking up each of your mills, describe how they are situated with respect to the Santa Fe Railroad, and how they
6855 are operated with respect to the railroad operations as mill facilities.

Mr. Filson: I don't know as I know just what you want to get at.

(Question read.)

Mr. Cowan: I mean your own railroad operation.

Mr. Filson: We are connected with the Santa Fe at each mill by a spur track. As I stated, we are not on the Santa Fe rails.

Mr. Cowan: How far are each of your mills from the Santa Fe?

Mr. Filson: The Remlig mill is about two miles east of the Santa Fe, and the Jasper mill about three-quarters of a mile west of the Santa Fe.

Mr. Cowan: You reach the Santa Fe in what way?

Mr. Filson: We have a track from each mill to the Santa Fe, over which we get our empties at the Santa Fe stations and deliver our loads to them at the stations.

Mr. Cowan: Take your north mill; what one do you call that?

Mr. Filson: Remlig.

Mr. Cowan: How many miles of railroad have you in con-
6856 nection with your plant, from your plant to the Santa Fe and out to the timber?

Mr. Filson: We have these two miles from the Santa Fe to the mill, and then our logging operations in an opposite direction, and we had there a year ago fifteen miles, including spurs, and we have since added possibly two miles during the year.

Mr. Cowan: Is that railroad necessary to the operation of the mill?

Mr. Filson: Yes, sir, it is.

Mr. Cowan: What sort of road is it?

Mr. Filson: It is a standard gauge, of which ten miles that we call our main line is pretty good railroad. We have got about four miles of it in heavy steel and the balance in new 35 pound, which we are replacing as fast as we can with heavy steel, taking up the light rail and putting heavy in place.

Mr. Cowan: What is the weight of the heavier rail you are putting in?

Mr. Filson: 65 pounds.

Mr. Cowan: Is the heavy rail and the good construction a matter of economy in the operation of the mill and logging
6857 business?

Mr. Filson: I think it pays to build a good track for main lines where it is permanent, for the life of the timber.

Mr. Cowan: What sort of locomotives have you?

Mr. Filson: Our main line engine is a rod engine, built by Baldwin & Company, and weighs about 45 tons. Then we have three Shay engines which do the switching.

Mr. Cowan: What is a Shay engine? It has been mentioned several times.

Mr. Filson: A Shay engine is a geared engine and has three engines on the right hand side——

Mr. Cowan: Three cylinders, you mean?

Mr. Filson: Three engines on the right hand side; three vertical engines; and it is intended for heavy work, heavy grades, sharp curves, and things of that kind.

Mr. Cowan: Geared in the sense that the stroke of the piston turns some——

Mr. Filson: Turns a shaft, which is geared to the drivers.

Mr. Cowan: And that is geared so the power is applied to a slow movement?

Mr. Filson: Yes, sir.

6858 Mr. Cowan: Whereas, in the case of the rod, every two strokes of the piston turns the drivers around?

Mr. Filson: Yes, the drivers, like they ordinarily use on a railroad.

Mr. Cowan: What sort of equipment have you in use on your railroad?

Mr. Filson: At Remlig we have 35 log cars, I believe, and we have two flat cars and two cabooses.

Mr. Cowan: Do you carry anything else except your logs and your lumber?

Mr. Filson: Yes, sir; we do. We have a turpentine camp out at the end of the track, or near the end of it, and we haul their supplies to them and bring out their product to the Santa Fe at Brookland, which is our shipping point on the Santa Fe. Besides that we have hauled out for other parties considerable hard wood and some staves, loaded on our tram line.

Mr. Cowan: Then does this turpentine business have any relation to your company?

Mr. Filson: No.

Mr. Cowan: Do the producers of staves and hard wood have anything to do with your company?

6859 Mr. Filson: No.

Mr. Cowan: Do they get their timber from you?

Mr. Filson: No.

Mr. Cowan: Any farmers in the country there?

Mr. Filson: There are some farmers; yes, sir.

Mr. Cowan: Do you haul anything for them?

Mr. Filson: Well, yes; most of the farmers out there do their trading at our company store, and we haul stuff out to them, principally stuff that we sell them ourselves through our store.

Mr. Cowan: Do you haul anything to them that you do not sell at your store?

Mr. Filson: Well, if it is anything at all, it does not amount to much.

Mr. Cowan: You would do it, though, if they wanted you to, as a matter of accommodation?

Mr. Filson: Yes, sir.

Mr. Cowan: What quantity of stuff do you haul other than your logs and lumber product?

Mr. Filson: Well, I do not know; I have not got figures with me It would not amount to probably more than five or six cars a month.

6860 Mr. Cowan: Including both turpentine and staves?

Mr. Filson: Probably 100 cars a year would cover it.

Mr. Cowan: Do you have an arrangement whereby these people pay you for that?

Mr. Filson: We charge the turpentine people for hauling that stuff; yes, sir; and charge the people for hauling hard wood and staves.

Mr. Cowan: How far is the turpentine camp from the Santa Fe station?

Mr. Filson: About twelve miles.

Mr. Cowan: You haul your lumber from the mill to the Santa Fe station?

Mr. Filson: Yes, sir.

Mr. Cowan: Did you have any arrangement with the Santa Fe at any time for a switching allowance there?

Mr. Filson: Yes, sir; at one time they promised to pay us a switching charge on interstate business that remained on the Santa Fe rails.

Mr. Cowan: Going to Santa Fe stations?

Mr. Filson: Going to Santa Fe stations.

Mr. Cowan: As final destination?

Mr. Filson: Yes, sir.

6861 Mr. Cowan: How long was that in force?

Mr. Filson: Well, they only paid us for one month.

Mr. Walter: What month was that?

Mr. Filson: I think it was the first month we operated, probably January or February, 1906. We did not start up until 1906.

Mr. Cowan: February, 1906, you think?

Mr. Filson: Yes, sir.

Mr. Cowan: Who owns the rails from the Santa Fe Road to the mill?

Mr. Filson: They are rails we secured from the Santa Fe Company.

Mr. Cowan: Leased them?

Mr. Filson: Yes, sir.

Mr. Cowan: But that without rental?

Mr. Filson: The rails between the mill and Brookland we are not paying any rental for. We have other rails from them, however, that we are paying rental under their regular contracts.

Mr. Cowan: How is the engine equipped; with air brakes?

Mr. Filson: Our main line engine is equipped with air, yes, sir.

6862 Mr. Cowan: Do you do that because there is any law requiring you to, or as a matter of proper protection in operation?

Mr. Filson: The delivering of lumber to Brookland from our mill?

Mr. Cowan: No; do you get an engine with air brakes because any law requires you to do it?

Mr. Filson: I do not think there is any law requiring us to equip our engine with air.

Mr. Cowan: You simply prefer that?

Mr. Filson: Yes, sir; for that purpose.

Mr. Cowan: Do you carry any passengers over there?

Mr. Filson: Not for hire.

Mr. Cowan: Do you carry people who want to go back and forth?

Mr. Filson: Yes, sir, we do give them permission to ride on our trains.

Mr. Cowan: Do you have any liability for injuries and the like and running over stock?

Mr. Filson: Yes, sir, we have paid for stock, and we paid for a dog also.

Mr. Cowan: Do you not charge anything for men?

Mr. Filson: We do not charge anything for carrying them.

6863 Mr. Cowan: I say the men do not charge anything if you hurt them?

Mr. Filson: We have not hurt anybody by our railroad, that I remember.

Mr. Cowan: Going over to Jasper mill, you might take a piece of paper and show the Examiner about how your mill and terminus track and railroad are located and leave it with the Examiner.

Mr. Filson: I can do it roughly.

Mr. Cowan: That will be sufficient.

Mr. Filson: The Santa Fe runs north and south approximately. Brookland is about ninety miles north of Beaumont——

Mr. Cowan: Do not make the sketch too large.

Mr. Filson: You want to show the logging operations east of the mill?

Mr. Cowan: Yes.

Mr. Filson: Brookland would be about here, and our logging operations are about here (indicating). The turpentine camp is about here, and Jasper is seventeen miles south of here, and there the town of Jasper is located on this side of the track, and our mill is about here; that is about the way it is, roughly (indicating).

6864 Mr. Cowan: Where do you run your logging road from the mill at Jasper, parallel to the Santa Fe?

Mr. Filson: Yes, sir, it goes about seven miles north. Another turpentine camp is at the end of that logging road.

Mr. Cowan: And you lay your laterals out in the ordinary way that has been testified to here into the timber?

Mr. Filson: Yes, sir; at Remlig we are operating a separate steam skidder there, and can get our swiitches a little further, and at Jasper we use a combination loader and skidder and we have to get our tracks a little closer, still the topography of the country has a great deal to do with it.

Mr. Cowan: The ability to skid the logs?

Mr. Filson: Yes.

Mr. Cowan: How far generally are those tracks laid apart in the woods?

Mr. Filson: With our separate skidder, we find the practical distance is 600 feet. We find it cheaper to lay more tracks than to go a greater distance out for the logs. Going farther out it works a hardship on the horses used to pull the lines out.

Mr. Cowan: Your equipment down at the mill at Jasper, what have you there?

6865 Mr. Filson: We have a main line rod engine that we bought from the Lima Locomotive Works, that was their standard gauge and one of their latest type of engines for logging purposes; in fact all our machinery was bought new and built specially for the purposes it was intended for. Then we have a Shay engine there also that does the switching in addition to the main line engine.

Mr. Cowan: Do you get any allowance there from the Santa Fe for switching, or did you ever do so?

Mr. Filson: No, sir.

Mr. Cowan: How do you get the cars from the mill to the Santa Fe station; do you do the switching?

Mr. Filson: We go into the Jasper station and get our empties and take them out to the mill and when loaded take them back to the station at Jasper.

Mr. Cowan: What is your total investment in the railroad part of your plant, taking both plants?

Mr. Filson: The two places amount to about $160,000.

Mr. Cowan: What do you figure it costs you to build your main stem out from the Remlig mill?

Mr. Filson: Well, our grading costs about $2,500 a mile. It was originally laid with 35 pound steel, and it costs as
6866 much more per mile. Then there are the ties and the cost of putting it down.

Mr. Cowan: I thought you might have some general figure which would give some idea.

Mr. Filson: Five or six thousand dollars a mile.

Mr. Cowan: And laying it with heavy steel will raise that cost?

Mr. Filson: Yes, sir.

Mr. Cowan: About how much per mile; have you it in mind?

Mr. Filson: Possibly $1,500 or $2,000 more per mile.

Mr. Cowan: What is the capacity of your Remlig mill?

Mr. Filson: It gives us about three million feet a month, 150,000 a day, 130,000 to 150,000.

Mr. Cowan: What sort of mill is that?

Mr. Filson: Double band and circular.

Mr. Cowan: Have you any gangs at either of your mills?

Mr. Filson: We have at Jasper. The Jasper mill is a band and gang.

Mr. Cowan: What is the capacity of the Jasper mill?

Mr. Filson: About 85,000 to 100,000 board measure a day.

Mr. Cowan: Gang has been several times referred to, and
6867 for the purposes of the record, I wish you would state what a gang is.

Mr. Filson: Well, a gang mill—ours has 26 saws in it. It is a small gang. Twenty-six saws in a frame which goes up and down like this (indicating,) and make 26 or 24 boards at a time.

Mr. Cowan: Then you first must slab your logs?

Mr. Filson: We take two slabs off unless we are cutting the flitches.

Mr. Cowan: What is a flitch?

Mr. Filson: Two or three small boards.

Mr. Cowan: After you have got the width of your log so you can get the width of the gang, do you run through more than one log at a time?

Mr. Filson: Yes, sir; if it is small material, we can put in two or three logs.

Mr. Cowan: When it goes through the gang it cuts the entire log into boards?

Mr. Filson: Yes, sir, or two-inch lumber, whichever the saws are set to cut.

Mr. Cowan: What is the extent of the hard wood?

Mr. Filson: In that country the creek bottoms are covered
6868 with hard wood, but in our immediate section the bottom is not very wide, so there is not a great deal of hard wood in there.

Mr. Cowan: That depends on the width of the bottom?

Mr. Filson: It only grows in the bottoms.

Mr. Cowan: The pine trees are in a sandy, poor soil generally?

Mr. Filson: Pretty poor soil.

Mr. Cowan: Is that the case in that part of Texas, in the pine forests, and throughout western Louisiana?

Mr. Filson: That is the case in southeast Texas, and I think the same thing applies across the river in Louisiana.

Mr. Cowan: Where do you market your lumber?

Mr. Filson: Most of our lumber remains in Texas. We ship, however, to Oklahoma and Kansas and some to Chicago. Our trade is pretty widely distributed. We ship over a large territory. Some into New Mexico.

Mr. Cowan: Do you look after the sales department yourself?

Mr. Filson: No, we have a sales manager who handles the sales.

Mr. Cowan: You are in the general management of the business?

6869 Mr. Filson: Yes, sir.

Mr. Cowan: You might state what official position you hold with the company.

Mr. Filson: Secretary and treasurer and general manager.

Mr. Cowan: With whom do you compete at places where you sell lumber?

Mr. Filson: Well, we compete with everybody that ships into territory that we ship to. In some territory we compete with Pacific Coast stuff. I suppose we compete with white pine. Of course our principal competition is the other yellow pine mills.

Mr. Cowan: In what territories do you meet the yellow pine competition from Arkansas and Louisiana?

Mr. Filson: I think the Arkansas mills ship into central and northwest Texas, and I think the Louisiana mills ship to all parts of Texas.

Mr. Cowan: Do you know whether, or do you think you know whether the fact that mills in Louisiana and Arkansas under certain conditions, and some of them in Texas, get a division of the rate puts you at a disadvantage in the sale of lumber?

Mr. Garwood: We object to that question. That is asking an opinion without the facts upon which the opinion is based

6870 so that we may cross examine upon the facts upon which the opinion is based. We have sought at every time possible in this record to get in the only facts upon which such an opinion might properly be predicated and upon objection of counsel for intervenors, such questions have been objected to and have been uniformly sustained. Now, even an expert cannot state an opinion without the facts upon which his opinion is based. Now we say here is a bald, unsupported opinion without facts upon which an opinion might properly be predicated.

Mr. Cowan: Well, I do not care anything about it. We offer to prove it by other witnesses.

Examiner Burchmore: Do I understand you withdraw the question?

Mr. Garwood: You think the objection is good, do you?

Mr. Cowan: No, sir; don't take too many liberties with counsel.

Mr. Garwood: I will take the liberty of asking the question.

Examiner Burchmore: I understand the question is withdrawn.

Mr. Cowan: Are you acquainted with the other saw mills in the pine forests of Texas, and their location and how they are

6871 logged and how the business is handled?

Mr. Filson: Well, I have been in most of the mills in our immediate neighborhood, and in two or three in southwest Louisiana.

Mr. Cowan: Have you been to some of those who are getting tap line divisions?

Mr. Filson: I was at one time in a mill at De Ridder, which is owned by the Long-Bell Lumber Company.

Mr. Cowan: Is your railroad any more a necessary plant facility than the one of theirs which you saw there?

Mr. Filson: Well, our railroad is a necessity to our business. I do not see how they could get along without a railroad for bringing in logs.

Mr. Cowan: Do they ship lumber over into Texas?

Mr. Filson: I have heard of them shipping lumber over into Texas; yes, sir.

Mr. Cowan: Have you heard of them getting the business where you wanted to get it yourself in some cases?

Mr. Garwood: State the specific instance; when, where and under what circumstances, the price offered and the price sold at. I think that is the only way that such an answer can be given with any propriety.

6872 Mr. Cowan: I will stand by that question. He can answer it any way he pleases.

Mr. Filson: I cannot specify any specific case.

Mr. Garwood: That is what I thought.

Mr. Filson: But he got the business away from us.

Mr. Cowan: But you selling there and he selling there, it naturally follows that either he got the business from you or you from him?

Mr. Garwood: The objection to that——

Mr. Cowan: Well, he need not answer. I know that to be so.

Mr. Garwood: When you are willing to be sworn, Judge, we will take your statement.

Mr. Cowan: Have you any particular facts in connection with your mill that you would like to mention.

Mr. Filson: No, sir; I do not know of any.

Mr. Cowan: I think that is all.

Cross-examination:

Mr. Walter: Mr. Filson, you find competition pretty heavy with the tap line owners?

Mr. Filson: Well, we have found competition pretty hard with somebody lately. I suppose they are in the bunch.

6873 Mr. Walter: Could you distinguish as between the Kirby Lumber Company, the Industrial Lumber Company, the Lutcher-Moore Company or any other of the individuals?

Mr. Filson: I don't know as I could.

Mr. Walter: You cannot say, then, that this competition is any different from any other of the lumber companies than it is from the intervenors?

Mr. Filson: They are all after the business and somebody gets it.

Mr. Walter: What rate do you pay to Guthrie, we will say?

Mr. Filson: I am not familiar with freight rates. I think to Guthrie we have a 27½ cent rate. I am not sure about that, however, because I have no occasion to keep in touch with the rates.

Mr. Walter: Is it not 24 cents?

Mr. Filson: Possibly; I would not say.

Mr. Walter: You know where Nacogdoches is?

Mr. Filson: Yes, sir.

Mr. Walter: If I say to you that the rate from Nacogdoches which is nearer to Guthrie, is 27½ cents, what do you say as to whether your rate, three and one-half cents less, does not really and in effect afford you a three and one-half cent division
6874 to all intents and purposes on all your investment?

Mr. Filson: If we had a less rate to Guthrie than Nacogdoches we would have an advantage.

Mr. Walter: And it would be just the same advantage as if it were a division of the freight rate accorded to you?

Mr. Filson: Well, I think so; yes, sir.

Mr. Walter: You do not see any difference at all——

Mr. Marble: Do you agree to that, too, Mr. Walter?

Mr. Walter: I am talking to the witness. What do you say to that?

Mr. Filson: What is that?

Mr. Walter: What do you say to that?

Mr. Filson: What is the question?

Mr. Walter: Don't you in effect, get a division?

Mr. Filson: I don't think so; no, sir.

Mr. Coleman: Is there such a rate?

Mr. Walter: Is not that just the same effect as if you got a division?

(Previous question and answer read.)

Mr. Walter: Take any local point on the Santa Fe, where your local rate is three and a half cents less than it is from your
6875 competitor at Nacogdoches, do you say that the division of three and one-half cents makes any difference?

Mr. Filson: I say we have the advantage of that Nacogdoches mill if we have a three and a half cent rate less than they have.

Mr. Walter: Do you complain of that?

Mr. Filson: I have not complained of that; no, sir.

Mr. Coleman: What has that got to do with this case?

Mr. Walter: Is not that true of all points where the rate from Santa Fe points is less than it is from your competitors——

Mr. Filson: We have the advantage in places of that kind, of course.

Mr. Walter: Do you complain of it?

Mr. Filson: No, we are not complaining.

Mr. Walter: Do you think it is unlawful?

Mr. Filson: I would not say.

Mr. Cowan: That is not for him to say, whether he thinks it is unlawful or not.

Mr. Walter: You say you take these cars and haul them from Jasper to your mill, that is, the empties, and take them back?
6876 Mr. Filson: From Brookland. Jasper is the railroad station, and our mill is three-quarters of a mile west from there. We go from the mill to the station of Jasper and load them at the mill and take them back to the station at Jasper.

Mr. Walter: Suppose I came in there to buy that piece of line and operate it; do I render any more service to the mill than I do to the Santa Fe in getting the tonnage for the Santa Fe?

Mr. Filson: How is that?

Mr. Walter: Do I render any more service to you, delivering your tonnage over my road to the Santa Fe, than I do for the Santa Fe in going out and getting the tonnage for the Santa Fe?

Mr. Filson: If you come in there and switch those cars for us, you relieve us of that service?

Mr. Walter: Don't I also relieve the Santa Fe of that service?

Mr. Filson: Well, we are relieving them now.

Mr. Walter: Are you not rendering a service for the carrier?

Mr. Filson: Yes, sir.

Mr. Walter: And that is true of all these lines that oper-
6877 ate in that way?

Mr. Filson: Anybody similarly situated would be doing the same thing.

Mr. Walter: Are you not also serving the consumer in affording him a source of supply in taking it from the mill to the trunk line?

Mr. Filson: Yes, sir, and we are giving them facilities for getting their stuff out to the trunk line.

Mr. Walter: And one is just as necessary as is the service from Brookland on into Oklahoma.

Mr. Filson: I don't understand the question.

Mr. Walter: The service that is rendered over that track from Brookland to your mill is a service that is rendered for the shipper or consignee; it is also a service for the railroad in getting the tonnage for the main line, is it not?

6878 Mr. Filson: Yes, sir.

Mr. Walter: That service over that system is just as much a service in getting it to the consumer as is for a similar distance the movement by the Santa Fe over its lines?

Mr. Filson: Yes, sir; they would have to haul that stuff in some way if we did not haul it to them.

Examiner Burchmore: From where to where?

Mr. Walter: From this mill to the Santa Fe tracks.

Examiner Burchmore: I thought you called it Brookland?

Mr. Walter: Brookland is the loading point on the Santa Fe.

Examiner Burchmore: I thought Jasper was the loading point on the Santa Fe.

Mr. Filson: We have two. Our mill at Remlig is two miles from the Santa Fe and we have a post office there which we call Remlig.

Mr. Walter: In the same way if your mill was located at Guthrie, the hauling of that log from the end of the track of the railroad through to Guthrie would be a service likewise in transportation, would it not?

Mr. Coleman: I object to that kind of a question.

Mr. Walter: I should expect you would.

6879 Mr. Coleman: It is nothing for the witness to give his opinion on.

Mr. Walter: They have been doing that from the beginning of this investigation.

Mr. Coleman: Commissioner Harlan expressly ruled on it this morning.

Mr. Walter: No, he did not. What do you say to that, Mr. Filson?

Mr. Filson: If somebody hauls it up there somebody performs a service.

Mr. Walter: And it is just as necessary to move the logs some distance as it is to move the lumber.a distance, is it not?

Mr. Filson: It is necessary to get the logs into the mill, yes.

Mr. Walter: And whether the mill is located at Guthrie or at your point does not affect the consumer, does it? He has no concern where it is milled?

Mr. Filson: I don't suppose he cares.

Mr. Walter: You say you haul for everybody along the line?

Mr. Filson: We have hauled.

Mr. Walter: Do you refuse to haul for anybody?

6880 Mr. Filson: I don't know that we have refused to haul for anybody.

Mr. Walter: Is it not necessary for the development of that country for you to have railroads?

Mr. Filson: Well, railroads are good developers of the country.

Mr. Walter: Are not they the greatest developers in the transportation line?

Mr. Filson: I think so.

Mr. Cowan: Surely, it seems unnecessary to take time with that. We are sitting here paying hotel bills, and what is the use of proving that a railroad is necessary for the development of the country? If the Commission don't know that, they had better resign.

Mr. Walter: How long a haul do you have from your mill to Jasper?

Mr. Filson: From the mill to the station?

Mr. Walter: Yes.

Mr. Filson: Three-quarters of a mile.

Mr. Walter: Is it the same distance from Brookland to your mill?

Mr. Filson: From Brookland to our mill at Remlig it is

6881 two miles.

Mr. Walter: Does any other material go over that line than lumber?

Mr. Filson: We haul the products of the turpentine camp and some staves and hard wood.

Mr. Walter: Do you get any revenue for hauling those staves?

Mr. Filson: We have made a charge for it; yes, sir.

Mr. Walter: What charge do you make?

Mr. Filson: For staves we have charged them 3 cents per hundred pounds with a minimum of $12 a car, I believe.

Mr. Walter: For the two mile haul?

Mr. Filson: No, sir.

Mr. Walter: How far?

Mr. Filson: Wherever the cars are loaded on our tram road.

Mr. Walter: How far would that be on an average?

Mr. Filson: We haul the products of the turpentine camp about 12 miles.

Mr. Walter: Do you haul other materials?

Mr. Filson: Yes, sir.

Mr. Walter: Do you charge the same rate to everybody?

Mr. Filson: No, sir; we do not.

6882 Mr. Walter: On the same commodity you make a difference?

Mr. Filson: We are charging the turpentine camp $10 a car flat.

Mr. Walter: What do you charge for staves?

Mr. Filson: We charge 3 cents per hundred pounds with a minimum charge of $12 a car.

Mr. Walter: Which is the more valuable on the carload?

Mr. Filson: The naval stores.

Mr. Walter: Much more and the risk is much greater?

Mr. Filson: Yes, sir.

Mr. Walter: Why did you not incorporate that road?

Mr. Filson: Well, sir, we did not figure it would pay us to do so.

Mr. Walter: If you did that you would have to have some regulating authority over your charges, too, would you not?

Mr. Filson: Yes, sir.

Mr. Walter: I will ask you whether or not the liabilities entailed upon you by state legislation and state commissions would not be a very material item in operation, if you were incorporated?

Mr. Filson: We considered that when the matter was discussed.

Mr. Walter: And that is true, is it not?

6883 Mr. Filson: Yes, sir.

Mr. Walter: Now, I will ask you whether in determining the cost of your lumber you calculated into it the revenue derived from hauling this over your road for other people?

Mr. Filson: Our logging expenses got credit for whatever we charged for hauling stuff over the tram.

Mr. Walter: No, I am asking whether in figuring your cost of lumber you figured this in it?

Mr. Filson: The cost was reduced by the receipts for hauling this stuff.

Mr. Walter: Are you sure of that?

Mr. Filson: Yes, sir.

Mr. Walter: How much did it reduce it?

Mr. Filson: Whatever it amounted to.

Mr. Walter: Did you figure it in the cost of the lumber?

Mr. Filson: We give the logging expenses credit for whatever we got out of it.

Mr. Walter: I am asking if you figure that revenue in determining the cost of the lumber per thousand?

Mr. Filson: Yes, sir; we figure the lumber at the cost per thousand feet, and the logging got credit for whatever we got for hauling this stuff and reduced the cost that much.

6884 Mr. Walter: How much revenue did you receive?

Mr. Filson: Well, I believe I stated we hauled about ap-

proximately 100 cars a year; it would amount to $1000 in the course of a year's business. That is problematical, however.

Mr. Walter: How much have you invested in your mill?

Mr. Filson: You mean the mill itself?

Mr. Walter: The mill and timber.

Mr. Andrews: If the Examiner please, we have been making objections to that question and the objections have been sustained and we make the same objection in this case.

Examiner Burchmore: I believe objections have been offered to that line of questions and my impression is they have been sustained and exceptions have been noted.

Mr. Walter: I do not understand that the Commissioner ruled on that particular question.

Examiner Burchmore: As to the value of the mill investment?

Mr. Walter: The investment in the mill and timber.

Mr. Andrews: I do not remember whether it was before or after you came in yesterday, but this specific question was put to
6885 Mr. Kirby as to the cost of his mills, or the value of his mill properties, in connection with the statement that he had given of the cost of the railroad but had not given the cost of the mills, and upon objection the cost of the mills was excluded.

Examiner Burchmore: I think the Commissioner sustained that objection to that very question.

Mr. Walter: We will note an exception.

Mr. Garwood: For the purposes of the record will counsel consider that the question is asked of each of the witnesses, as to the Lutcher-Moore Company and the others?

Mr. Andrews: Yes.

Mr. Marble: That was agreed to this morning.

Mr. Cowan: No, that was applicable to the selling cost and the price of lumber.

Mr. Marble: Well this is the same class of testimony.

Mr. Cowan: Yes.

Examiner Burchmore: It is understood such objection will be noted.

Mr. Walter: Did you sell lumber any cheaper because of this revenue?

Mr. Filson: I do not think we did.

Mr. Walter: You say the greater portion of your lumber
6886 is sold in Texas.

Mr. Filson: Well, yes, sir. I have got the figures here, I believe.

Mr. Walter: All right, can you give us the figures showing us where your lumber was sold?

Mr. Filson: Yes, sir. (Produces paper.)

Mr. Walter: Do you sell it to the Santa Fe Railroad?

Mr. Filson: We try to sell them but have not been able to lately.

Mr. Walter: Mr. Kirby gets most of that business, doesn't he?

Mr. Filson: No, I don't think they have been buying much.

Mr. Walter: When they did buy were you able to sell them any?

Mr. Filson: Yes.

Mr. Walter: You sold most of your business on Santa Fe points?
Mr. Filson: No.
Mr. Walter: Put that statement in the record.
Mr. Filson: I do not think that is made just as you asked for it, but it will answer the purpose, probably.
Mr. Walter: Do you have sales agents?
6887 Mr. Filson: We have a general sales agent at the office and we have a man at Fort Worth on salary.
Mr. Walter: The man who is selling that lumber, does he take into consideration the freight charge in fixing his price?
Mr. Filson: You mean the cost of freight to get it from mill to destination?
Mr. Walter: No, in making up his figures to the consumer or purchaser does he consider the freight charges?
Mr. Filson: Yes, sir.
Mr. Marble: Concerning whom is this question asked?
Mr. Andrews: His sales agent.
Mr. Walter: You take a local point on the Santa Fe, you have a rate less, we will say, 3½ cents than your competitor off the Santa Fe——
Mr. Andrews: Just a moment. If the Examiner please, I am not willing for the statement to go in. I do not think counsel intends it that way, but it seems to me that would be the effect of it, that this witness would have a 3½ cent less rate to all Santa Fe points than people who are not on the Santa Fe.
Mr. Walter: No, I do not say that at all.
6887*a* Mr. Andrews: I did not think you meant it, but that is the way it sounded. Now, if that difference is between isolated points and you want to put them in evidence, we have no objection, but we do not want it to appear in the record that that is general.
Mr. Walter: I will confine my question to points in Oklahoma reached exclusively by the Santa Fe. I will ask you whether your salesman in fixing his price, his offer to the consumer or retailer or jobber or whatever it be, makes his price, taking into consideration the freight rates from your mill as compared with the freight rates from, say, Nacogdoches for example
Mr. Filson: He takes the freight rate into consideration.
Mr. Walter: And makes his price accordingly?
Mr. Filson: Yes, sir; he tries to get all he can for his stuff.
Mr. Walter: How is that sold, f. o. b. the mill?
Mr. Filson: No, sir; our stuff going to retail yards is sold delivered.
Mr. Walter: Who pays the freight?
Mr. Filson: The dealer pays the freight and charges it back to us and the invoice is made covering freight charges.
Mr. Walter: I will ask you whether in fixing that delivered
6888 price you take into consideration your freight rate as compared with the freight rate, for example, from Nacogdoches?
Mr. Filson: If a desirable piece of business shows up and we find

some other mill has a little lower rate than we have, we reduce our price.

Mr. Walter: Suppose your rate is less than his?

Mr. Filson: We would get all we could in that case.

Mr. Walter: You would maintain the rate from Nacogdoches, then?

Mr. Filson: We would try to take advantage of our advantage in the freight rate, yes, sir.

Mr. Walter: In fixing that price would you take into consideration this revenue you have received of $1,000?

Mr. Filson: It would not cut much ice, $1000 on the amount we ship.

Mr. Walter: It is wholly negligible, what your railroad earns?

Mr. Filson: Yes, sir, almost.

Mr. Walter: You do not take it into consideration at all?

Mr. Filson: Only we credit the logging cost——

Mr. Walter: But in fixing your selling price you do not take it into consideration at all?

6889 Mr. Filson: In fixing the selling price we do not take it into consideration at all.

Mr. Walter: Would you have any objection to letting us know your average selling price?

Mr. Andrews: Just a moment. Counsel who represent the intervenors have objections, and as long as they are willing to retain the counsel, it seems to me that it is an improper question and the same objection was made on yesterday and sustained by Mr. Commissioner Harlan, when Mr. Kirby was being examined.

Examiner Burchmore: The objection will be sustained.

Mr. Walter: We would like to have go into the record in connection with the witness's testimony the table furnished by him showing destination points and the amounts sold in various states.

(The paper so offered and identified was received in evidence and thereupon marked Exhibit No. 1, Witness Filson, received in evidence February 1, 1911, and is attached hereto.)

Examiner Burchmore: Is that an exhibit to your testimony?

Mr. Filson: Yes, sir; I understood they have asked for it.

Mr. Andrews: They have offered it. We have no objec-

6890 tion to their offering it.

Mr. Marble: You have been questioned somewhat as to the necessity of certain operations for getting lumber into the market. The first necessity is for the tree to grow in the soil, is it not?

Mr. Filson: Yes, sir.

Mr. Marble: Then you must put in a mill?

Mr. Filson: Yes, sir.

Mr. Marble: And you must chop down the tree?

Mr. Filson: Yes, sir.

Mr. Marble: You must transport the log to the mill either with oxen or with a railroad?

Mr. Filson: In some manner; yes, sir.

Mr. Marble: And you must there saw the tree into lumber?

Mr. Filson: Yes, sir.

Mr. Marble: And prepare the lumber for shipment and load it on the cars?

Mr. Filson: Yes, sir.

Mr. Marble: And take it out to the main line carrier?

Mr. Filson: Yes, sir.

Mr. Marble: And the main line carrier must take it across state lines and to destination?

6891 Mr. Filson: Yes, sir.

Mr. Marble: If the living tree is to go to the retail yard for sale, each one of these operations is absolutely necessary, is it not?

Mr. Filson: Yes, sir.

Mr. Marble: Could any one be omitted and the tree go to the yard?

Mr. Filson: No, it could not.

Mr. Marble: And it was in that way that you testified, was it, that this transportation from your mill to the main line carrier was as neccessary as the transportation by the main line carrier?

Mr. Filson: It was necessary; yes, sir.

Mr. Marble: And I presume you are willing to leave it to the Interstate Commerce Commission to decide which of those operations is transportation subject to the Act to regulate commerce and which is outside the Act?

Mr. Filson: Yes, sir.

Mr. Marble: And I shall leave it to the Commission instead of to you.

Mr. Walter: There are two operations, one is converting and the other is carrying, are there not?

6892 Mr. Filson: Yes, sir.

Mr. Walter: Can you see that it makes any difference where the carrying is done, whether it is before there is any milling done or after it is all done or whether the milling is done with transportation on each side?

Mr. Filson: There is a limit to the practical distance to where you could carry the log before manufacturing it. I do not think you could carry it to Guthrie and manufacture it up there.

Mr. Walter: But within reasonable limits.

Mr. Filson: Well, the reasonable limits would be considerably less than from our mill to Guthrie.

Examiner Burchmore: It does not seem to me to be profitable to carry that further because it would readily occur that logs are sometimes carried 500 miles and then manufactured into baskets.

Mr. Walter: I wanted to see if it was any less transportation service because it is a log than lumber.

Mr. Walter: Let me ask you whether logs are not transported across the Atlantic Ocean and there manufactured?

Mr. Filson: Yes, sir; we have shipped them, that is, we have sold them to people who have shipped them.

6893 Mr. Walter: And they mill them over there?

Mr. Filson: Yes, sir; in Germany.

Mr. Garwood: Have you prepared any statement in addition to that showing the states and countries to which you have shipped your product during the past year or so or is the one you introduced in evidence the only one you have prepared?

Mr. Filson: That is the only one.

Mr. Andrews: Your trans-Atlantic transportation of logs was square timber?

Mr. Filson: No; round timbers.

Mr. Andrews: Pine logs or hard wood?

Mr. Filson: Pine logs.

Mr. Andrews: Is that indulged in extensively?

Mr. Filson: I understand there is quite a little movement out of New Orleans, but this is the only Texas shipment I ever heard of.

Mr. Andrews: There is a great deal of hardwood shipped that way, is there not?

Mr. Filson: Yes, sir; of hickory and cedar.

Mr. Andrews: And ash, particularly.

Mr. Filson: Hickory, ash and cedar are generally shipped
6894 in the round.

Mr. Coleman: Just to pursue Mr. Walter's questions to an absurdity, does the transportation line over in Germany absorb the ocean haul on the log?

Mr. Garwood: I object to the question on the ground the gentleman himself says it is an absurdity, and if so I do not think it would throw any light on the situation.

Mr. Marble: I don't suppose the witness knows.

Mr. Filson: No, I do not know.

Mr. Cowan: There was one question I forgot to ask you, why your mill was located away from the Santa Fe track?

Mr. Filson: At Remlig the main reason was to get on an unfailing supply of water?

Mr. Cowan: You have to be at a place where you can get water?

Mr. Filson: Water is an absolute necessity to a saw mill, and plenty of it.

Mr. Cowan: I suppose Mr. Walter will not contend that the rates from Nacogdoches to Texas points are different than the rates from Santa Fe points to the same blanket territory?

Mr. Walter: It is a great deal different to Oklahoma points, due entirely to the action of the Santa Fe carrying out certain promises referred to in this record.

6895 Mr. Cowan: You just answered the question I asked you, and then went on to something else I did not ask. I asked it with a view of asking this witness and trying to get some information.

Mr. Walter: All right.

Mr. Cowan: I observe in your statement that in your shipment to Texas points on the Santa Fe there was 1,733,334—feet, I suppose that is.

Mr. Filson: That is in feet; yes, sir.

Mr. Cowan: Whereas to Texas points not touched by the Santa Fe there was 8,477,434 feet, which is very nearly one-third of your entire

output. I observe also in your statement that to Oklahoma points local to the Santa Fe you shipped 714,125 feet, whereas to local points in Oklahoma not touched by the Santa Fe you shipped 993,369 feet. Would those figures indicate to your mind that your relations to the rates confine you to sales on the Santa Fe railroad?

Mr. Filson: They do not confine us to the Santa Fe rails.

Mr. Cowan: If a man from Nacogdoches was shipping lumber for the purpose of sale to Guthrie, Oklahoma, what route could he take, do you know?

Mr. Filson: No, sir; I do not know, but I——

6896 Mr. Marble: The Commission would know that.

Mr. Filson: But he can get it in there over other roads than the Santa Fe and get the same rates. I do not think Guthrie is a local point.

Mr. Walter: I qualified that to make it a local point.

Mr. Cowan: But you used Guthrie as an illustration and I wanted to show it was not a local Santa Fe point.

Mr. Walter: But I qualified it.

Mr. Cowan: What railroads are there at Nacogdoches?

Mr. Filson: I think it is the Houston, East & West Texas, and I do not know what other line.

Mr. Cowan: The T. & N. O.?

Mr. Filson: The T. & N. O. I believe, yes, sir; both Southern Pacific.

Mr. Cowan: Do you know of any saw mills in your district, and by that I mean in the district that takes this same blanket rate to different interstate destinations which have to pay a higher rate than you do to get to the same consuming points which are the important places of consumption, like large towns and cities?

Mr. Filson: No, sir; the large towns I think are all on the same basis. There are other ways to get into them. Those high

6897 rates only apply to strictly Santa Fe points, as I understand it.

Mr. Cowan: But if you did have a lower rate of 3 or 3½ cents per hundred pounds than your competitors, you would have necessarily that much advantage of them?

Mr. Filson: We would have that much advantage and would work that field pretty strong too.

Mr. Cowan: It does not make any difference whether you would have that given as a division of rates or a lower blanket rate?

Mr. Filson: No matter how we got it we would have the advantage.

Mr. Cowan: Then the man who has the division of the rate shipping from Nacogdoches over the Houston, East & West Texas to Guthrie would have the same advantage that you have by his trunk line?

Mr. Filson: To the sum that he gets as a division he would have an advantage over us.

Mr. Walter: You know the rate from Nacogdoches to the Santa Fe connection over the Houston, East & West Texas and thence over the Santa Fe to Guthrie is 3½ cents higher than if it went over

the Houston, East & West Texas without touching the Santa
6898 Fe rails?

Mr. Filson: I do not know.

Mr. Walter: If the tariff shows that——

Mr. Filson: It is so; yes, sir.

Mr. Walter: Do you know any explanation for that on the part of the Santa Fe?

Mr. Filson: No, sir; I do not.

Mr. Cowan: You do not think the man would use it when he could get there cheaper the other way, do you?

Mr. Filson: I think he would ship the cheapest route.

(Witness excused.)

I. STEPHENSON, was called as a witness, and having been duly sworn, testified as follows:

Mr. Cowan: Where do you live?

Mr. Stephenson: I live in Louisiana.

Mr. Cowan: And what part?

Mr. Stephenson: Ludington.

Mr. Cowan: Where is that?

Mr. Stephenson: On the Kansas City Southern, south of Shreveport.

Mr. Cowan: On what railroad?

6899 Mr. Stephenson: Kansas City Southern.

Mr. Cowan: How far is that from Lake Charles?

Mr. Stephenson: About sixty miles, I guess.

Mr. Cowan: And from Beaumont?

Mr. Stephenson: Something about 90 miles I believe.

Mr. Cowan: And from Orange?

Mr. Stephenson: I don't know just what it is.

Mr. Cowan: Are you engaged in the manufacture of lumber?

Mr. Stephenson: Yes, sir.

Mr. Cowan: What is the name of the lumber company with which you are connected?

Mr. Stephenson: Ludington, Wells and Van Schaick Lumber Company.

Mr. Cowan: Where is your mill located?

Mr. Stephenson: At Ludington.

Mr. Cowan: Where is your timber located?

Mr. Stephenson: Both east and west of there.

Mr. Cowan: Nearby or far away?

Mr. Stephenson: Right there, 12 miles each side of us.

Mr. Cowan: What is the extent of your timber holdings?

Mr. Stephenson: About 50,000 acres uncut.

Mr. Cowan: What character of logging operations do you
6900 carry on?

Mr. Stephenson: We have about 11 miles of logging road or tram is what we call it.

Mr. Cowan: How much of that is what has been denominated as main line, or rather, permanent track?

Mr. Stephenson: Well, there is about 6½ miles of it is main line.

Mr. Cowan: And the balance logging spurs?

Mr. Stephenson: And the balance logging spurs and part of the main line which will be taken up when the timber is cut off.

Mr. Cowan: Do you have any other railroad connection except the Kansas City Southern?

Mr. Stephenson: Yes, sir, we have the Santa Fe and the Lake Charles & Northern.

Mr. Cowan: Do they all reach your mill?

Mr. Stephenson: They are five miles from the mill, about.

Mr. Cowan: How do you reach those roads from your mill?

Mr. Stephenson: Over our tram roads.

Mr. Cowan: Do you haul your lumber to those roads?

Mr. Stephenson: Yes, sir, and we receive cars from them on the Santa Fe line at Ikes and bring them to the mill and load
6901 them with lumber and return them again.

Mr. Cowan: Who performs that service?

Mr. Stephenson: The lumber company with the tram road.

Mr. Cowan: Do you get anything for it?

Mr. Stephenson: No, sir.

Mr. Cowan: How do you get your cars from and to the Kansas City Southern at Ludington?

Mr. Stephenson: We put them on our Y in connection with their siding and our station, and we take them from there to the planing mill and saw mill.

Mr. Cowan: Who does that?

Mr. Stephenson: The lumber company.

Mr. Cowan: Do you get anything for that?

Mr. Stephenson: No.

Mr. Cowan: How does your track compare with the Kansas City Southern?

Mr. Stephenson: I guess it is just about the same thing, maybe a little better than most places in our section.

Mr. Cowan: Are you acquainted with the mill and location at Fullerton?

Mr. Stephenson: Not very well.

Mr. Cowan: Have you been there?

6902 Mr. Stephenson: I have been there once, yes, sir.

Mr. Cowan: They handle the cars and lumber in connection with the road with which they connect about six miles, I believe?

Mr. Stephenson: That is what I understand, something like that.

Mr. Cowan: Is this service you perform in going over to the Santa Fe and the L. C. & N. and different materially *to* the character of service they perform in hauling the lumber?

Mr. Stephenson: I don't know that it is.

Mr. Cowan: How many cars do you take out at a time?

Mr. Stephenson: It is according to how many we can get. We have taken as high as 20.

Mr. Cowan: Is the track whereby you connect with the Santa Fe

and the L. C. & N. the same main track over which you haul your logs to the mill?

Mr. Stephenson: Within about half a mile of it.

Mr. Cowan: How is that?

Mr. Stephenson: About half a mile of spur from our main line to the connection with the Santa Fe.

Mr. Cowan: Otherwise it is the same track you handle your logs over?

6903 Mr. Stephenson: Otherwise it is the same track we handle our logs over, yes, sir.

Mr. Cowan: Do you handle logs over more track than you do the lumber?

Mr. Stephenson: Yes, sir.

Mr. Cowan: Have you ever had any division of the rates, or any allowances for this service?

Mr. Stephenson: Yes, sir. Not from the Santa Fe or the L. C. & N.; we did at one time from the K. C. S.

Mr. Cowan: But you do not get it from them now?

Mr. Stephenson: No.

Mr. Cowan: What service did you perform at that time different from what it is now?

Mr. Stephenson: Not any different.

Mr. Cowan: Have you had any chance to get divisions from the L. C. & N. and the Kansas City Southern of late?

Mr. Stephenson: I have had from the Kansas City Southern about a year ago.

Mr. Cowan: Did you take it?

Mr. Stephenson: No, sir.

Mr. Cowan: Why?

Mr. Stephenson: Well——

6904 Mr. Garwood: What proposition does this illustrate? Is it going into this witness's reasons for doing or not doing a thing? What is the materialty of it?

Mr. Cowan: I do not care to ask it, but I supposed you would ask it and I thought I would beat you to it.

Mr. Garwood: That is a very violent supposition, that I shall do or not do a particular thing.

Mr. Cowan: I do not think it is violent. It may not be justified but I supposed you would ask it.

Examiner Burchmore: Has that question been asked of any other witness?

Mr. Marble: It was asked of Mr. Farwell. I do not think myself that it is relevant, though, but it was asked by Mr. Walter, I believe.

Examiner Burchmore: There seems to be a general objection. We will proceed with some other question.

Mr. Cowan: What is the output of your mill?

Mr. Stephenson: Thirty-five to forty million feet a year.

Mr. Cowan: To what places do you ship your lumber for market?

Mr. Stephenson: Texas, Missouri, Illinois, Oklahoma and the last few months of last year there was a great deal went to places in

Louisiana and east of the river, some places that we don't
6905 know anything about.

Mr. Cowan: Have you any list of the states to which you shipped?

Mr. Stephenson: No, sir.

Mr. Cowan: Do you export any?

Mr. Stephenson: No, sir; only a few cars.

Mr. Cowan: Why don't you export?

Mr. Stephenson: That is a line of business we don't know anything about. We have not done any.

Mr. Cowan: Do you ship mostly over the Kansas City Southern or the Santa Fe?

Mr. Stephenson: Since we have had connection with the Santa Fe we ship mostly over that road on account of our markets being mostly over in that direction.

Mr. Cowan: Well, do you ship to any other places than Santa Fe stations of consumption when you ship on the Santa Fe?

Mr. Stephenson: Yes, sir.

Mr. Cowan: Do you get the same rates shipping to the same places as you would by shipping over the L. C. & N.?

Mr. Stephenson: Yes, sir. Some places we do. I guess almost every one of them that I know of.

6906 Mr. Cowan: Do you ship as far as Chicago?

Mr. Stephenson: Yes, sir.

Mr. Cowan: Your forest adjoins the Fullerton properties?

Mr. Stephenson: I believe they are east of us.

Mr. Cowan: It is the same general forest?

Mr. Stephenson: Yes.

Mr. Cowan: The same kind of timber?

Mr. Stephenson: Yes, sir; and I guess practically the same kind of timber; it is supposed to be.

Mr. Cowan: If the Fullerton interests get 4 cents per hundred pounds for taking their lumber to the L. C. & N. and you take your lumber there and do not get anything, do you figure that that would give them an advantage of you?

Mr. Garwood: We object to this question upon the ground that we have heretofore continuously endeavored to procure from every witness the facts upon which alone such an opinion could be predicated. Those facts, upon objection of counsel for Intervenors, have uniformly been excluded. Now, having deprived the court of the facts upon which alone the opinion could be based, we make the objection that the calling for an opinion without the facts upon which it alone can be based is improper.

6907 Mr. Marble: I should like to add to that the suggestion that it simply calls for an opinion of the witness. The effect of the freight he pays and the amount that is returned out of them to some one else is a conclusion the Commission can arrive at. I do not object at all but am simply calling *objection* to it.

Mr. Cowan: I am asking for a specific case in the same neighborhood. One man gets paid for hauling it and the other does not.

Mr. Garwood: We have gone over this a great many times and

counsel for the Intervenors have been allowed a latitude which is indeed, in my judgment, extraordinary, but where the effort has been made upon the part of those interested from our point of view to get all of the facts and put them freely before the Commission, that effort has been met upon the part of the other side by equally strenuous effort to keep the facts out, which up to this time, have been successful. It seems to me it is just simply calling for a general opinion or guess which ought not afford the Commission any light, and I think at this stage we ought to abandon that line of interrogatory.

Mr. Marble: Inasmuch as I made I believe, in the first
6908 place, the objection to the proposed plan that the presence or absence of discrimination should be proved by figures as to cost of manufacture or sale price, and inasmuch as the Commissioner is absent, who to my mind very properly ruled that that was not a way to prove discrimination subject to the act, I feel somewhat inclined to resent such a statement going into the record in this way at this time.

Mr. Garwood: What part of it?

Mr. Marble: Simply this. The counsel has spoken of extraordinary freedom being allowed the attorneys for the Intervenors or the other side. I do not know whether that includes me or not, and there is the implication that they had been unfairly dealt with. Mr. Garwood knows there is a distinction between jurisdiction subject to the act and jurisdiction not subject to the act.

Mr. Garwood: Yes.

Mr. Marble: And a distinction between jurisdiction of industrial acts, and the Commission in ruling upon the evidence had that distinction in mind, and I do not think this is the time to argue that matter or make any imputations of that sort.

Mr. Garwood: I do not care to argue it as a matter of
6909 course, but I think there ought to be a limit on that, and I now rise to see if we cannot put a limit upon it.

Mr. Marble: I thought this question called for an opinion and therefore that the objection was well made.

Mr. Cowan: I do not think Mr. Garwood is very serious. I think this is kind of made for the audience when he says we have tried to keep out facts. He knows we tried to keep out the ones we objected to, and I suppose he means that, and I am going to make the suggestion, which I think he will agree to, that what Mr. Garwood means was the evidence which was excluded, and he did not mean anything else.

Mr. Garwood: I could not have meant anything else——

Mr. Cowan: I did not intend to impute anything to counsel.

Examiner Burchmore: Do you feel the interests you represent will be prejudiced by an answer to that question?

Mr. Garwood: I would have no objection if we were permitted to follow it up, but to go through the same line of procedure and argument on questions every time it is asked is a waste of time.

Examiner Burchmore: I think the objection should be sustained.

Mr. Cowan: I will withdraw the question, Mr. Stephenson.
6910 I asked a good deal like Mr. Garwood makes the objection, more for the question of punctuating it than otherwise. I know as much about that as he does.

What are the conditions in that part of the country which is about to be developed by Mr. Fleishel's railroad, a map of which you saw, with respect to affording a country which would support a railroad other than the timber interests?

Mr. Stephenson: I did not see the map.

Mr. Cowan: Well, it is to be built in connection with Lutcher-Moore Company's road over to Alexandria, probably via Fullerton or that neighborhood.

Mr. Stephenson: I could not answer that.

Mr. Cowan: Well, it would have to go through your forest would it not?

Mr. Stephenson: No, according to that he would go west of us.

Mr. Cowan: You are not acquainted with the country through which it is planned to go?

Mr. Stephenson: No.

Mr. Cowan: Are there farming operations in your district?

Mr. Stephenson: Very few.

6911 Mr. Cowan: What sized town is there at the place where you have your mill?

Mr. Stephenson: Just a saw mill town.

Mr. Cowan: How many people?

Mr. Stephenson: There are about four hundred employés there and their families; and some towns on both sides of us.

Mr. Cowan: A population of how many for this 400 people

Mr. Stephenson: Maybe 1200 or 1500 people around there.

Mr. Cowan: Depending entirely on the saw mill interests?

Mr. Stephenson: Yes, sir.

Mr. Cowan: Is there any traffic to haul except for people who could not be there except for the saw mill operations?

Mr. Stephenson: Nothing to haul; only a little station at Ikes, there are some buildings going up and we haul some there.

Mr. Cowan: Do you haul lumber and stave bolts for people?

Mr. Stephenson: No.

Mr. Cowan: Do you haul any passenger cars?

Mr. Stephenson: No.

Mr. Cowan: Do you haul them on your lumber cars?

Mr. Stephenson: No, unless a person wants to go to the woods.

6912 Mr. Cowan: What sort of equipment have you?

Mr. Stephenson: Two locomotives, five flat cars, a water car, 42 logging cars and a motor car.

Cross-examination:

Mr. Walter: When you deliver to the Kansas City Southern how far do you have to haul the loaded cars?

Mr. Stephenson: From the saw mill it is about nearly three quarters of a mile and from the planing mill about half a mile.

Mr. Walter: When you haul it to the Santa Fe, how far?

Mr. Stephenson: About five miles.

Mr. Walter: Why do you haul the most of your tonnage that five miles?

Mr. Stephenson: Well, we have several reasons.

Mr. Walter: What are they?

Mr. Stephenson: The first one, when we located there we only had a connection with the Kansas City Southern and cars were scarce, and one thing and another, and we did not think they treaed us right compared with what they were doing with some others, and as soon as there was a chance to get a connection we built the road through and got it, and we give them a good many cars, just the same to the Kansas City Southern as we do
6913 to the others, the rates and all being the same, unless they had a surplus of cars and others had not, we would use the other line. We would give it to the L. C. & N. or to the Santa Fe or whichever road had them to offer.

Mr. Walter: What does it cost you to haul five miles?

Mr. Stephenson: We do not get any revenue.

Mr. Walter: Not revenue but cost.

Mr. Stephenson: I could not tell you. It is done in connection with our logging. We keep no separate account of it.

Mr. Walter: Why do you haul it that five miles other than to spite the Kansas City Southern?

Mr. Stephenson: It is right on our connecting lines to the wood where we go, so it is not out of the way to do it.

Mr. Walter: The car that carries the lumber does not go to the woods?

Mr. Stephensn: No, we stop about half way out.

Mr. Walter: You bring the logs down and haul the lumber back?

Mr. Stephenson: Yes, sir.

Mr. Walter: Why do you send it Santa Fe other than that?

Mr. Stephenson: No other reason.

Mr. Walter: You said a while ago something about markets.

6914 Mr. Stephenson: Well, that is all.

Mr. Walter: What about the markets on the Santa Fe which makes them desirable as against the Kansas City Southern?

Mr. Stephenson: We have a good many customers over in Texas that want it routed on the Santa Fe.

Mr. Walter: Those that live on the Santa Fe want Santa Fe routing of course.

Mr. Stephenson: Yes.

Mr. Walter: Let me ask you whether you get more for the same grade of lumber loaded at local points Santa Fe than you do when it is going Kansas City Southern?

Mr. Stephenson: Not that I know of, the same rate——

Mr. Walter: I am not speaking about the rate. The mill price of the lumber when it is sold Santa Fe local points as compared with the mill price delivered elsewhere.

Mr. Stephenson: The same.

Mr. Walter: You want to be understood as saying in this record that your mill price for the same grade of lumber delivered to a local Santa Fe point is the same as your mill price delivered to a Kansas City Southern point?

Mr. Stephenson: We figure about the same.

Mr. Walter: About the same is different than "the same."

6915 Mr. Stephenson: I cannot give you just the figures.

Mr. Walter: Don't you know as a matter of fact you get a better price for your lumber delivered at a local Santa Fe point?

Mr. Stephenson: No, sir; I do not.

Mr. Walter: Did you make any promise to the Santa Fe before they came to your place?

Mr. Stephenson: No, sir.

Mr. Walter: Did they buy anything from you?

Mr. Stephenson: Yes, sir.

Mr. Walter: How much?

Mr. Stephenson: I don't know the amount, but whenever we can get a bill in, price and all being equal.

Mr. Walter: When they were buying lumber rather freely did you not sell them a bit of lumber?

Mr. Stephenson: We have sold them quite a bit in the last few years and would sell them more if we could.

Mr. Walter: That price is satisfactory to you?

Mr. Stephenson: Yes, sir. I will not — that either, because it has not been satisfactory for the last two or three years.

Mr. Walter: You take the empty cars from the Santa Fe at what point?

6916 Mr. Stephenson: At Ikes.

Mr. Walter: Are you a member of the per diem association?

Mr. Stephenson: No, sir.

Mr. Walter: Do you pay per diem on these cars?

Mr. Stephenson: No.

Mr. Walter: Do you pay demurrage?

Mr. Stephenson: No.

Mr. Walter: Regardless of the time you keep them on there you do not pay demurrage?

Mr. Stephenson: We have not paid any yet, no, sir.

Mr. Walter: You sometimes keep the cars there several days without paying demurrage?

Mr. Stephenson: Sometimes they are at Ikes Station for several days on the Santa Fe.

Mr. Walter: Don't they wait at Ludington sometimes?

Mr. Stephenson: Sometimes, yes, sir.

Mr. Walter: A week or so.

Mr. Stephenson: I don't think that they have that long.

Mr. Walter: Three or four days?

Mr. Stephenson: Well, they might.

Mr. Walter: The Santa Fe making no charge for the time you keep those cars?

6917 Mr. Stephenson: No, sir; not that I know of.

Mr. Walter: How long ago was it you were getting these divisions?

Mr. Stephenson: In the latter part of 1907, I believe.
Mr. Walter: What was the amount of your division?
Mr. Stephenson: If I remember correctly it was 1 to 3 cents.
Mr. Walter: Now that was not any too much, was it?
Mr. Stephenson: I don't know anything about it.
Mr. Walter: You have an idea about it. Was that too much?
Mr. Stephenson: No, I don't know as it was.
Mr. Walter: A reasonable amount?
Mr. Stephenson: A reasonable amount I believe.
Mr. Walter: Have you anything to do with the sale of lumber?
Mr. Stephenson: Very little.
Mr. Walter: Then when you answer as to the price received on the Santa Fe as compared with other points you are not definitely informed upon that.
Mr. Stephenson: I may not be.
Mr. Walter: Why didn't you incorporate?
Mr. Stephenson: It was the opinion of our attorneys it was not according to law.
6918 Mr. Walter: To incorporate according to law was not according to law?
Mr. Stephenson: No, sir; it was a saw mill proposition.
Mr. Walter: If it was a saw mill proposition why did you accept divisions?
Mr. Stephenson: Well, that is the reason they stopped it.
Mr. Marble: I thought that question was objected to.
Mr. Coleman: I think it is objectionable.
Mr. Walter: What other reason was there why you were not incorporated?
Mr. Stephenson: No other that I know of.
Mr. Walter: Was the mere incorporation of your railroad what your attorney said was unlawful?
Mr. Stephenson: I don't know just how he fixed it. He said——
Mr. Walter: Just what did he say?
Mr. Cowan: Give the witness a chance to answer.
Mr. Stephenson: According to his opinion as attorney it was nothing but a logging road in connection with the mill.
Mr. Walter: And could not be incorporated?
Mr. Stephenson: That was his opinion of it.
Mr. Walter: Did he give you any opinion as to whether when you were incorporated as in the manner you were doing business
6919 you would be entitled to a division of the rates?
Mr. Stephenson: He did not.
Mr. Walter: So that his opinion was entirely upon the question whether there was any right to incorporate?
Mr. Stephenson: Yes.
Mr. Walter: Are you connected with any other railroad?
Mr. Stephenson: No, sir.
Mr. Walter: Have you any interest in a railroad in Michigan or in the north?
Mr. Stephenson: No.
Mr. Walter: None whatever?

Mr. Stephenson: No.

Mr. Walter: Has your lumber company?

Mr. Stephenson: No.

Mr. Walter: Is there not a very great need for an east and west line in Louisiana.

Mr. Stephenson: Yes, sir; I believe there is: somewheres north of us would be a good thing I think.

Mr. Walter: Don't you think that speaking by *and* large these short lines serve a great purpose in developing in that they afford existing links which when completed make a through line?

6920 Mr. Stephenson: Well, that is a question of the district they are in.

Mr. Walter: Is that the only answer you can give?

Mr. Stephenson: That is the only one I would give.

6921 Mr. Walter: In your own territory there what do you say to that question?

Mr. Stephenson: What is the question?

Mr. Walter: As to whether these existing short lines do not form available lines of railroad, which, when the links are bridged, give transportation across a wide area of country that otherwise would be without it?

Mr. Stephenson: I don't know of any of them.

Mr. Walter: Don't know of any of these lines that have been absorbed and become parts of systems?

Mr. Stephenson: Not that I know of.

Mr. Walter: How long have you been down in Louisiana?

Mr. Stephenson: Since 1903.

Mr. Walter: You have lumbered a good deal in the north, have you not?

Mr. Stephenson: Yes, sir.

Mr. Walter: Is that your experience there?

Mr. Stephenson: Up there we did not use logging roads.

Mr. Walter: How do you log up there?

Mr. Stephenson: Horses and sleds in the winter.

Mr. Walter: A good deal of that timber is away from the main line, is it not?

6922 Mr. Stephenson: Yes, sir.

Mr. Walter: How do you get to a railroad?

Mr. Stephenson: You don't get in. You go down the river in open times.

Mr. Andrews: I do not want to consume any time objecting, but it seems to me that is certainly not the subject of inquiry here.

Mr. Walter: It is probably a little bit afield, but I thought we might see whether a railroad was absolutely essential to the development of the lumber industry.

Mr. Marble: Why can we not stipulate that?

Mr. Coleman: That is our contention.

Mr. Marble: Why can we not stipulate that it is essential?

Mr. Walter: Would you be willing to stipulate that?

Mr. Marble: Certainly.

Mr. Walter: That in that country or in the lumber interests generally, that the lumber interests are not required to have a railroad?

Mr. Marble: I thought you said——

Mr. Walter: That it is not a part of the plant facility.

Mr. Marble: I will ask the reporter to read the suggestion Mr. Walter made. That is what I was willing to stipulate.

6923 Mr. Walter: I will ask you whether in Wisconsin the main line roads build these up to the mills and operate them.

Mr. Stephenson: In some places I believe they do.

Mr. Cowan: You can find out from me. I have been fishing up all over that country and find they have been taken up since the timber has been taken out.

Mr. Coleman: I can testify to that.

Mr. Cowan: You were made to say a few minutes ago in the form of question and answer——

Mr. Walter: I object to that. Mr. Stephenson knows I did not intend to make him say anything——

Mr. Cowan: That the sole reason for not incorporating was the mere matter of the opinion of your attorney that the matter of incorporation itself would be illegal, which leads me to ask the question where you got your advice?

Mr. Stephenson: Where?

Mr. Cowan: Yes.

Mr. Stephenson: Our attorneys at Milwaukee.

Mr. Cowan: And that was in the form of a letter?

Mr. Stephenson: No, sir; in the form of a conversation.

Mr. Cowan: What other object of incorporation could there have been except to get divisions?

6924 Mr. Stephenson: Well, that is the only one we knew of. In fact, we did not know of the division being made, or so much of it, when we took it up with them, and they said it was a logging proposition as they figured it, and not a railroad proposition, and until the——

Mr. Cowan: What did he advise you about your right to divisions?

Mr. Stephenson: He advised me to take it up with the Interstate Commerce Commission and let them give me a ruling whether we were entitled to the division or not, if we should incorporate.

Mr. Cowan: And if the Commission holds you are entitled to it, you will incorporate?

Mr. Stephenson: We will incorporate.

Mr. Cowan: And otherwise not?

Mr. Stephenson: And otherwise not.

Mr. Cowan: You said the Santa Fe had not charged you any demurrage on cars, and in view of the fact that the tariffs provide demurrage rules, and that would be a violation of law if they did not——

Mr. Stephenson: Not that I know of, I said.

Mr. Cowan: I wondered if you knew whether they make a

6925 demurrage charge which goes along with the freight charges.

Mr. Stephenson: Not that I know of, I said.

Mr. Cowan: You do not mean to be understood that they do not charge you demurrage where you hold a car off their line?

Mr. Stephenson: Not that I know of, I said.

Mr. Walter: But you were right in your answer, were you not, that the only opinion that your lawyer gave you was as to the legality of incorporating?

Mr. Stephenson: That is what I stated.

Mr. Cowan: I don't understand that.

Mr. Coleman: That is not so.

Mr. Cowan: He came back and he said he told him if the Interstate Commerce Commission——

Mr. Marble: What possible difference can it make? This lawyer has not qualified as learned in the law, and we do not know who it was.

Mr. Walter: That would not be a violent assumption.

Mr. Marble: But it would not be a statement of fact, and it would be going afield from the purposes of this inquiry anyway. The lawyer might have been mistaken and might have advised him he could legally take a rebate.

Mr. Coleman: Mr. Walter is trying to get him to say that
6926 it would be illegal to incorporate rather than illegal to receive a division.

Mr. Marble: I do not think Mr. Walter is trying to make him say anything.

Mr. Walter: Not at all.

Mr. Coleman: If it is going to go in, it should be put in right.

Mr. Walter: The witness stated it right.

Mr. Cowan: What do you say he said about it?

Mr. Walter: I am not saying anything.

Examiner Burchmore: I think we have gone far enough with the question. The witness has answered it four or five times.

Mr. Cowan: I want to move to strike out Mr. Walter's last question and the answer to it, wherein he repeated that the lawyer had not told the witness anything other than it was unlawful to incorporate, and the witness had previously said, in answer to my question, that the only purpose of incorporating was to get the divisions, and that it was the division that would be unlawful, and if he put it up to the Interstate Commerce Commission and they allowed it, he would incorporate. We understand that that is the testi-
6927 mony. I will waive going any farther.

Mr. Walter: You are not answering the question——

Examiner Burchmore: We will not go any farther on that question.

Mr. Cowan: I have no questions.

(Witness excused.)

JOSEPH MUTH was called as a witness, and having been duly sworn, testified as follows:

Mr. Cowan: You have stated your name?
Mr. Muth: Yes.
Mr. Cowan: Where do you reside?
Mr. Muth: At Elizabeth, Louisiana.
Mr. Cowan: What part of the state is that?
Mr. Muth: That is in the southwestern portion.
Mr. Cowan: On what railroad?
Mr. Muth: The Santa Fe.
Mr. Cowan: Is that the line that runs through De Ridder?
Mr. Muth: Yes, sir.
Mr. Cowan: How far are you from De Ridder?
Mr. Muth: About thirty miles.
Mr. Cowan: Which direction?
6928 Mr. Muth: East.
Mr. Cowan: What business are you engaged in there?
Mr. Muth: The manufacture of lumber.
Mr. Cowan: What is your relation to the company?
Mr. Muth: I am the auditor.
Mr. Cowan: Auditor of the company?
Mr. Muth: Yes.
Mr. Cowan: What is the name of the company?
Mr. Muth: The Industrial Lumber Company.
Mr. Cowan: Now, what is the location of your mill or mills?
Mr. Muth: Well, we have three mills. One is located at Elizabeth on the line of the Santa Fe Railroad; another one is located at Oakdale, on the Missouri Pacific and the Santa Fe, and the other one is about two miles southwest of Oakdale on our own line.
Mr. Cowan: Taking up the mill at Elizabeth; what is its capacity?
Mr. Muth: It is about to run night and day, but we only operate it one shift now, and the capacity is approximately 175,000 feet for a ten hour run.
Mr. Cowan: How do you get the logs to the mill?
6929 Mr. Muth: We haul them in over a tram road.
Mr. Cowan: How far does that tram road run from the mill?
Mr. Muth: Well, it connects Oakdale with Elizabeth by a roundabout route.
Mr. Cowan: That is, your tram road does?
Mr. Muth: Yes.
Mr. Cowan: What distance is that?
Mr. Muth: Thirty miles, approximately.
Mr. Cowan: Does that run through your forests?
Mr. Muth: Yes, sir.
Mr. Cowan: And you get your logs by laterals thrown out from that called logging spurs?
Mr. Muth: Yes, sir.
Mr. Cowan: What is the class of this road?
Mr. Muth: It is a fairly good tram road; it is a comparatively

flat country and not much grading necessary. It is 35 pound steel mostly.

Mr. Cowan: What equipment have you got on that line?

Mr. Muth: We have 116 cars.

Mr. Cowan: Logging cars?

Mr. Muth: Yes, sir. They are not all logging cars. Of those, seven are flat cars, and we have seven locomotives and a
6930 motor car besides the usual logging equipment such as steam loaders and skidders.

Mr. Cowan: How many locomotives did you say?

Mr. Muth: Seven.

Mr. Cowan: Is that road used for logging the mill at Oakdale?

Mr. Muth: Yes, sir.

Mr. Cowan: Is it used for logging the mill south of Oakdale?

Mr. Muth: Yes, sir.

Mr. Cowan: Does it run through any other forest than yours?

Mr. Muth: No. There is some land along or near the line which we do not own, but most of it is our land.

Mr. Cowan: Do you parallel the Santa Fe?

Mr. Muth: We do not parallel it. We make a curve around it. The Santa Fe runs between Elizabeth and Oakdale, and we go between the same points, but their line is only about nine miles, while ours is thirty miles long.

Mr. Cowan: You make a horseshoe out into the forest?

Mr. Muth: Yes, sir.

Mr. Cowan: What other railroad have you beside that?

Mr. Muth: We have at Oakdale the Missouri Pacific.

6931 Mr. Cowan: No, I mean what other tram road in connection with your mill?

Mr. Muth: We have no other tram road.

Mr. Cowan: Then go ahead with what you were going to say about the Missouri Pacific.

Mr. Muth: We have at Oakdale the Missouri Pacific, formerly the St. Louis, Watkins & Gulf, and the Santa Fe, and at Elizabeth the Santa Fe only.

Mr. Cowan: Do you use any of these roads under any trackage rights?

Mr. Muth: No, we do not.

Mr. Cowan: Have you a special tram road in addition to this for any of your other mills?

Mr. Muth: No, sir.

Mr. Cowan: What is the capacity of your mill at Oakdale?

Mr. Muth: They are approximately 85,000 apiece, board measure.

Mr. Cowan: Two of them there?

Mr. Muth: Yes, sir. Well, at Oakdale and South Oakdale.

Mr. Cowan: You are counting those as the two mills?

Mr. Muth: Yes.

Mr. Cowan: What do you do with the lumber output at
6932 Elizabeth?

Mr. Muth: We sell it.

Mr. Cowan: How do you get it to the railroad?

Mr. *Cowan:* The mill is located immediately on the Santa Fe railroad.

Mr. Cowan: Do you perform any service in regard to handling the cars between the Santa Fe and your mill?

Mr. Muth: Not at Elizabeth; we do not. We do at Oakdale and at the Calcasieu mill, as we call it.

Mr. Cowan: Does all of the lumber manufactured at the Elizabeth mill go out over the Santa Fe?

Mr. Muth: Yes, sir, it has to.

Mr. Cowan: Does all the lumber manufactured at Oakdale go out over the Santa Fe?

Mr. Muth: No.

Mr. Cowan: How is that divided?

Mr. Muth: The larger portion of it goes Santa Fe, but then considerable of it goes Missouri Pacific.

Mr. Cowan: Your rate is the same on both to the same points?

Mr. Muth: Not always.

Mr. Cowan: Well, generally speaking, say you were ship-
6933 ping to——

Mr. Muth: The Missouri Pacific does not generally make rates to Santa Fe local points, of course, and vice versa.

Mr. Cowan: Nor the Santa Fe to the Missouri Pacific local points?

Mr. Muth: No.

Mr. Cowan: But to all competitive points the rates are the same?

Mr. Muth: The rates are usually the same; yes, sir.

Mr. Cowan: How do you get your lumber from the Oakdale mill to the railroad?

Mr. Muth: We take the empty cars from the Santa Fe interchange track and put them on our loading tracks at the mill and load them and then set them back loaded with lumber on the Santa Fe interchange track.

Mr. Cowan: How far is that, about?

Mr. Muth: It is only a short distance for the Oakdale mill, but it is approximately a mile and a half the way we carry it at the Calcasieu mill.

Mr. Cowan: You own that track?

Mr. Muth: Yes, sir.

Mr. Cowan: What does it cost you for the operation of
6934 this logging road?

Mr. Muth: What do you mean?

Mr. Cowan: I mean the road between Elizabeth and Oakdale; have you any figures on the unit cost per ton or per car or otherwise to show what the expenses of the railroad operations are?

Mr. Muth: The cost of operation of the main line and the maintenance of the tram road for the year, per thousand feet of logs, was 71½ cents per thousand last year.

Mr. Cowan: That applies to the logs going to all the mills?

Mr. Muth: Yes, average cost.

Mr. Cowan: What would be about your average haul of logs, do you think?

Mr. Muth: Approximately fifteen miles on the main line.

Mr. Cowan: Does that expense include the logging on the log spurs or just the main line?

Mr. Muth: Just the main line.

Mr. Cowan: What is the name of this railroad?

Mr. Muth: It is not named. We call it the tram road.

Mr. Cowan: What is the aggregate of the investment in your railroad and equipment serving these mills?

6935 Mr. Muth: Our tram road account shows a net investment of $223,988.77. That includes the road and logging equipment.

Mr. Cowan: Road and logging equipment?

Mr. Muth: Yes, sir.

Mr. Cowan: Well, it includes all equipment you have given a list of?

Mr. Muth: Yes, sir.

Mr. Cowan: And the loaders and skidders and log spurs?

Mr. Muth: Well——

Mr. Garwood: I think we are going now into the very field where we were told to keep out; that is, the cost of equipment. Is not a skidder pretty much part of the mill, as well as anything else?

Mr. Cowan: Well, leave out skidders, just to save time, but I never saw so much quibbling about a small thing.

Mr. Muth: Do you want the separate items of the investment?

Mr. Cowan: No, the aggregate investment in your railroad you have already given.

Mr. Muth: Yes.

Mr. Cowan: That is sufficient for my purpose. How long have you been operating?

6936 Mr. Muth: Well, I think we commenced operating there about 1898 or 1899.

Mr. Cowan: Do you pay attention to the sales end of the business?

Mr. Muth: No.

Mr. Cowan: Have you any table or list showing the different states in which you market your lumber and the respective amounts in each?

Mr. Muth: I do not think we have. I do not think our record has been kept so we could give it very readily.

Mr. Cowan: Generally to what states do you send your shipments?

Mr. Muth: We sell in the Middle West very largely, Texas, some east of the river points, Mexico, and we export some.

Mr. Cowan: Somewhat similar to the market that is reached by your competitors in the same locality?

Mr. Muth: Yes, sir, very similar.

Mr. Cowan: Is there any other fact in connection with the case and your operations there that you want to speak of?

Mr. Muth: Not that I know of particularly.

Mr. Cowan: That is all.

6937 Cross-examination:

Mr. Walter: From whom did the Industrial Lumber Company buy its timber land?

Mr. Muth: A great many different people.

Mr. Walter: Did they buy any large amount from anyone?

Mr. Muth: Yes, sir, they bought a good many thousand acres from the Calcasieu River Lumber Company, and a good many more from the Wright-Blodgett Company.

Mr. Walter: In what name is the title to those lands? The Southwestern Land and Lumber Company?

Mr. Muth: The particular lands I am speaking of are in the name of the Industrial Lumber Company.

Mr. Walter: There are large bodies there in the name of the Southwestern Lumber Company, are there not?

Mr. Walter: That has been referred to in their records, I think, sufficiently. I have no more questions.

Mr. Garwood: I think all that was gone into perhaps in the original case.

Mr. Cowan: It was, and Mr. Muth——

Mr. Muth: I think that entire contract is in the record in the Star Grain and Lumber Case, at least it was so said to me in another hearing.

6938 Mr. Walter: You were there in about 1898 or 1899?

Mr. Muth: Yes, sir.

Mr. Walter: Was the Santa Fe there then?

Mr. Muth: No.

Mr. Walter: When did the Santa Fe come into the territory?

Mr. Muth: I don't think it commenced to operate to Oakdale until the latter part of 1907.

Mr. Walter: Do you know whether there is any arrangement made with the Santa Fe, to furnish most of the tonnage to the Santa Fe?

Mr. Muth: Made with the Santa Fe to furnish most of our tonnage?

Mr. Walter: Yes.

Mr. Muth: I think there is; yes, sir.

Mr. Walter: Does the Santa Fe take any cars from your mill loaded and turn them over at Oakdale to the Missouri Pacific?

Mr. Muth: Yes, sir—which mill do you mean?

Mr. Walter: Either one of them.

Mr. Muth: The Elizabeth mill and the Calcasieu mill; yes, sir.

Mr. Walter: Is the Calcasieu mill on the Santa Fe only or

6939 on the Missouri Pacific as well?

Mr. Muth: It is on our line only, and the Santa Fe is nearest, and they have a station called Calcasieu between Elizabeth and Oakdale.

Mr. Walter: How far is it from Oakdale?

Mr. Muth: Two miles.

Mr. Walter: On that the Santa Fe gets its division, does it not-

Mr. Muth: I don't know.

Mr. Walter: Do you pay any switching charge on it?

Mr. Muth: No; we forward it on the through rate.

Mr. Walter: So if the Santa Fe gets paid, it must come out of the through rate?

Mr. Muth: I should judge so.

Mr. Walter: For a two-mile haul?

Mr. Muth: Yes, sir.

Mr. Walter: Is that true of the Oakdale mill; does the Santa Fe turn over any cars loaded at the Oakdale mill and give them to the Iron Mountain?

Mr. Muth: We do not ship anything from this mill to the Iron Mountain, because there are no rates in effect.

Mr. Walter: No rates in effect?

6940 Mr. Muth: Not via the Santa Fe. If such a car were routed, it would be given to the Iron Mountain direct at Oakdale.

Mr. Walter: Do you have any logs hauled from the main line of the Santa Fe through Elizabeth to Oakdale.

Mr. Muth: No.

Mr. Walter: Any logs hauled at all on either of these main lines for your line?

Mr. Muth: No.

Mr. Walter: None at all?

Mr. Muth: I think there was a little storm timber maybe—I do not know, but I understood there was possibly half a million feet of storm timber which was hauled a year ago.

Mr. Walter: How were those logs paid for?

Mr. Muth: I don't know.

Mr. Walter: You don't know about that?

Mr. Muth: No, I think they were paid for by the Santa Fe, though.

Mr. Walter: All you know is in regard to the accounts of this lumber company?

Mr. Muth: Not entirely.

Mr. Walter: Do you go out and see the operation in any 6941 way?

Mr. Muth: Yes, sir.

Mr. Walter: What do you do in the way of looking after the operation?

Mr. Muth: I have no specific duties in that regard, but have kind of a general supervision.

Mr. Walter: Are there any other mills out on your line than your own?

Mr. Muth: No.

Mr. Walter: Anybody ships from there?

Mr. Muth: No.

Mr. Walter: Has anybody wanted to ship from out there?

Mr. Muth: No.

Mr. Walter: You do not haul anything for anybody except for the lumber company?

Mr. Muth: Directly or indirectly? There is a company store out at our logging camp.

Mr. Walter: Do you haul that material?
Mr. Muth: Yes.
Mr. Walter: Get any revenue from it?
Mr. Muth: No.
Mr. Walter: Do you haul anything for which you get revenue?
6942 Mr. Muth: From the Producers Turpentine Company, an affiliated corporation, we do; yes, sir.
Mr. Walter: What do you get for hauling that?
Mr. Muth: $5.00 a car.
Mr. Walter: Where do you haul that to?
Mr. Muth: Any point along the tram line where their turpentine is.
Mr. Walter: To what point?
Mr. Muth: Elizabeth.
Mr. Walter: Is it handled in tank cars?
Mr. Muth: No, on flat cars; barrels of crude gum.
Mr. Walter: Do you haul for anybody else any of that material?
Mr. Muth: No.
Mr. Walter: Has anybody else asked you to haul anything which you have refused to haul?
Mr. Muth: No.
Mr. Walter: Did you ever receive any divisions?
Mr. Muth: No.
Mr. Walter: You are not incorporated?
Mr. Muth: Not separately.
Mr. Walter: Just a nameless railroad?
6943 Mr. Muth: Yes, sir; merely a tram road.
Mr. Walter: What percentage of your business goes Santa Fe and what Iron Mountain?
Mr. Muth: I could not tell you exactly. The larger per cent goes Santa Fe.
Mr. Walter: A good deal larger percentage?
Mr. Muth: A good deal larger percentage.
Mr. Walter: Practically all of it?
Mr. Muth: No, not practically all.
Mr. Walter: Would you say 75 per cent?
Mr. Muth: I should say at least that much.
Mr. Walter: Is it as much as 90 per cent?
Mr. Muth: I should not think so.
Mr. Walter: Somewhere between 75 and 90?
Mr. Muth: Somewhere between 75 and 90.
Mr. Walter: Do you use the main line of the Santa Fe?
Mr. Muth: No.
Mr. Walter: Does the Santa Fe use your main line?
Mr. Muth: No.
Mr. Walter: You were able to give us the cost of operation on your main line only?
Mr. Muth: Yes.
6944 Mr. Walter: How do you get those figures?
Mr. Muth: The reason we can do that is because the

tram line main line runs between Oakdale and Elizabeth, and the main line engines do not leave the main line. The logs are sawed in the woods and skidded and loaded and brought to the junction point of the logging road with the main line, and trains are there made up and carried to the different mills by the main line engines.

Mr. Walter: You took for this $223,000 your main line engines with a train load of empty logging cars down to your junction with your spur?

Mr Muth: Yes, sir.

Mr. Walter: Leaving these cars there and taking up a load of loaded cars?

Mr. Muth: Yes, sir.

Mr. Walter: Now, then, the operation for that for how long a time was $223,000?

Mr. Muth: $223,000 was not the operating cost. That was the investment.

Mr. Walter: You said 71½ cents was the cost per thousand feet.

Mr. Muth: Per thousand feet of logs.

6945 Mr. Walter: For hauling over that main line?

Mr. Muth: Yes, sir.

Mr. Walter: How did you get that?

Mr. Muth: Well, we took the cost of keeping up the main line of road, and the cost of maintaining the logging cars and the cost of maintaining the main line engines and cost of paying the main line engine crews, brakemen and so forth, and added it al- together and divided by the number of logs hauled, and that is the answer.

Mr. Walter: You maintain those logging cars?

Mr. Muth: Yes, sir.

Mr. Walter: Those logging cars went off your main line into the spurs?

Mr. Muth: Yes, sir.

Mr. Walter: That is a much harder service on the spurs than on the main line, is it not?

Mr. Muth: Possibly so.

Mr. Walter: You made no allowance, then, for spur usage?

Mr. Muth: We did not make any allowance for spur wear and tear on the logging cars, because we did not — how to differentiate it.

Mr. Walter: Did you allow anything for depreciation?

6946 Mr. Muth: Not on those figures.

Mr. Walter: Would not that make some change?

Mr. Muth: It would add to the cost; yes, sir.

Mr. Walter: Would it add very much?

Mr. Muth: About eight per cent, I should judge.

Mr. Walter: Eight per cent on the investment, $223,000?

Mr. Muth: Well, possibly so, yes, sir.

Mr. Walter: How many thousand feet did you haul?

Mr. Muth: Approximately 63,000,000.

Mr. Walter: 63,000,000?

Mr. Muth: Log scale.

Mr. Walter: That would be 63,000 thousands.

Mr. Muth: Yes, sir.

Mr. Walter: And that eight per cent on the $223,000 would be about $17,000?

Mr. Muth: Yes, sir.

Mr. Walter: Now, 63,000 into that would give you about in the neighborhood of thirty cents, would it not, to be added to the cost?

Mr. Muth: Yes, a little less than thirty cents.

Mr. Walter: So it costs you about one dollar to haul on the main line?

6947 Mr. Muth: Of course our depreciation was figured on an estimated basis. We do deduct approximately eight per cent depreciation, but the $223,000 is not all main line, it covers the skidders, loaders and laterals in the woods and spurs in the woods, so you must not take it all from main line operation.

Mr. Walter: Would you say 25 per cent of that investment was in spurs and in engines used on the spurs?

Mr. Muth: I would have to figure that before I could say what it was.

Mr. Walter: Now, you have 71½ cents cost for hauling your lumber out per thousand?

Mr. Muth: Hauling the logs in.

Mr. Walter: How much of a haul do you make on the finished lumber?

Mr. Muth: We do not make any at Elizabeth. We make a few hundred yards at Oakdale and maybe a mile and a half at Calcasieu.

Mr. Walter: Is that counted at all into this logging cost?

Mr. Muth: No.

Mr. Walter: That would still further add to the cost of delivering to the trunk line?

6948 Mr. Muth: Yes, sir, but it had nothing to do with the logs.

Mr. Walter: But in taking from the spur and carrying the rough material through the mill and the lumber out, it would add rather materially to the cost per thousand of lumber?

Mr. Muth: It is a cost of manufacture of lumber, yes, sir, and we charge it to our aggregate expense.

Mr. Walter: You say it is an item of cost of manufacture?

Mr. Muth: In our opinion; yes, sir, in our accounts it is.

Mr. Walter: The way you keep your accounts?

Mr. Muth: The way we keep our accounts.

Mr. Walter: What difference does it make whether you count it manufacture or transportation, if the Santa Fe comes into the mill and takes the lumber out, then would you say it is a transportation haul?

Mr. Muth: At our Oakdale and Calcasieu mills they are somewhat differently situated than most mills. We have two mills there very nearly together and we have two lumber yards and we sell from them as a unit, and consequently we keep a switch engine there and load half a car at one mill and carry it up to the other and finish loading, and when we finish loading we hand it to the other, and the extra switch expense on that account is little or nothing. We have to maintain the switch engine anyway.

6949 Mr. Walter: That is not part of the manufacture, is it?

Mr. Muth: Yes, sir.

Mr. Walter: Delivering it to the Iron Mountain or Santa Fe you think is part of the manufacturing?

Mr. Muth: In our particular case I think it is, yes, sir.

Mr. Walter: What about this two mile haul?

Mr. Muth: The two mile haul of course at the mill would not be a part of it.

Mr. Walter: That would be a transportation haul?

Mr. Muth: Yes.

Mr. Walter: Are you a member of the Per Diem Association?

Mr. Muth: No.

Mr. Walter: Do you pay demurrage on cars?

Mr. Muth: We have not had to, because we do not hold them too long.

Mr. Walter: How long do you hold them?

Mr. Muth: Not more than 48 hours, except at Oakdale, where we do our own switching. We used to hold them 72 hours, but since that has been cancelled we only hold them 48 hours.

Mr. Walter: Do you have any bills for demurrage?

Mr. Muth: We have paid some demurrage; yes, sir.

Mr. Walter: You pay those bills, of course?

6950 Mr. Muth: Yes.

Mr. Garwood: Did I understand you to say that you were under contract obligations with the Santa Fe to deliver some portion of your tonnage to them?

Mr. Muth: No specified proportion, no.

Mr. Garwood: Are you — any contract obligations to deliver tonnage to them?

Mr. Muth: As I remember it, we are under obligations to deliver them the tonnage from those mills where the rates are equal.

Mr. Garwood: Where the rates are equal?

Mr. Muth: Yes, sir.

Mr. Garwood: Is it all the tonnage when the rates are equal or some specified proportion?

Mr. Muth: I don't remember the exact wording of the contract in that regard but——

Mr. Garwood: Have you the contract?

Mr. Muth: No, I think it is part of the record, though.

Mr. Garwood: Is it on file with the Commission?

Mr. Muth: I think it is part of the record in this same case.

Mr. Garwood: How is that, gentlemen?

6951 Mr. Coleman: That is in the Star Grain case.

Mr. Cowan: They all say it is; I do not know.

Mr. Garwood: If it is not in the record you will of course be glad to produce it?

Mr. Muth: Yes, sir.

Mr. Garwood: At the time the Santa Fe built in there, state whether or not it is a fact that your company took up or at least did not use a portion of its track that was practically parallel to the Santa Fe.

Mr. Muth: No, sir; we did not take up anything. We built eleven miles additional.

Mr. Garwood: Eleven miles additional?

Mr. Muth: Yes, sir.

Mr. Garwood: Do you use all of the track now that was there before the Santa Fe came in there?

Mr. Muth: Yes, sir.

Mr. Garwood: You do use part of the main line track of the Santa Fe?

Mr. Muth: No, only if we go on their tracks at Oakdale.

Mr. Garwood: I was under the impression, I may be wrong, I think I got it from some of these former hearings, and I wanted to see if it was correct, that you had a trackage contract of some
6952 character with the Santa Fe. Is that true?

Mr. Muth: I believe that is in the contract; yes, sir.

Mr. Garwood: Now, what does that trackage contract cover?

Mr. Muth: I think it permits us to use the main line of the Santa Fe at a trackage charge of fifty cents per thousand feet for logs.

Mr. Garwood: What part of the main line of the Santa Fe would you have occasion to use?

Mr. Muth: I could not tell you. Our present operations do not make it advantageous to use any part of it, and we probably will not for some years to come.

Mr. Garwood: Have you used any of it in the past is what I want to ascertain.

Mr. Muth: No, with the exception of that little storm timber I was telling you about, which was just an emergency.

Mr. Garwood: And the price is fifty cents a thousand feet?

Mr. Muth: Yes, sir.

Mr. Garwood: Logs?

Mr. Muth: Yes, sir.

Mr. Garwood: That is all.

Mr. Cowan: As you have gone into the matter of the trackage contract, I would inquire if there was some provision in the
6953 contract about taking up track. Judge Garwood asked you if you took up any.

Mr. Muth: We did not.

Mr. Cowan: There was some provision about taking up your track after the Santa Fe built in there?

Mr. Muth: I believe there was some provision we were to take up our then existing tram roads.

Mr. Cowan: But that never was insisted on and never was done?

Mr. Muth: Nothing was done and it was not spoken of.

Mr. Walter: Why was it put in the contract?

Mr. Muth: I am sure I cannot tell you.

Mr. Cowan: That is all.

(Witness excused.)

Examiner Burchmore: Have you any further witnesses?

Mr. Cowan: I have not any further witnesses here that we think would elucidate the case, or any particular point in the case that it

would be worth while to put on the witness stand. The intervenors asked the Commission at St. Louis to ask certain of the railroad officials to appear for examination, and at that time it was my intention to examine some of the traffic men with regard to the
6954 manner in which the system of rates on lumber in this territory and elsewhere in the United States had been made. My information is, however, that that has frequently been put before the Commission in the various investigations. I also wanted to call on the traffic managers to present the division sheets other than those applying in the district where the lumber is produced, so we might know what the range of the divisions was on lines reaching the lumber fields and then connecting with other lines which deliver the lumber to points of destination. I am informed that most of that has been presented to the Commission.

I want in that connection now to make the inquiry if the Commission has called for the division sheets in such a case. I suppose the railroads are not required to file division sheets except where the Commission may require them, and if that is known, I would like the information. Some of you gentlemen may know.

Examiner Burchmore: It is not customary for carriers to file division sheets.

Mr. Cowan: I know it is not, but I wondered if the Commission had called for them with respect to this traffic.

Examiner Burchmore: With respect to joint rates on lum-
6955 ber out of the southwest?

Mr. Cowan: With respect to divisions——

Examiner Burchmore: I think we have all the division sheets which apply over all these short line railroads.

Mr. Cowan: I understand that, but I am talking about division sheets when you get beyond that, what the delivering carriers and intermediate carriers get.

Examiner Burchmore: I think the same sheets show what all the carriers get, do they not?

Mr. Cowan: I do not think so. No doubt it does in some cases, and wherein it does not, if there are such cases, I wish to inquire of the Examiner if the Commission will ask for the filing of such division sheets as we may want in that matter without calling on any witness to produce them.

Examiner Burchmore: Can you file a specific request for certain classes of division sheets?

Mr. Cowan: I can, if that will serve the purpose. I am trying to shorten the hearing and not have to call witnesses to prove that situation, and call on them for division sheets. I suppose that will be called for if we request it. It is only with that understanding that I want to announce that we are through with our testimony.
6956 I suppose the trunk lines will be willing to furnish them. I do not know who are present—Mr. Jeffery, you will be willing to furnish them?

Mr. Jeffery: It is always a pretty large task to get up these division sheets; they have to be copied and we do not have them in printed form, but if it will help the case any and throw any light on the

contention of the intervenors or tap lines, we will be glad to do it. I cannot see myself how it will help the case, for this reason——

Mr. Cowan: We will not argue it now, but I will ask if you are willing to do it?

Mr. Jeffery: Then I will say briefly that I am not willing to do it. I would like to suggest that the divisions of these things very often do not help. At least five different times I have filed the divisions as to what we pay the short lines, but as to what we pay the long lines I do not think it will help any.

Examiner Burchmore: You will not need all the division sheets, will you, Judge Cowan? Certain representative ones will do?

Mr. Cowan: Why limit it? They are little documents that they all have printed.

Mr. Jeffery: What purpose do you want them for? What do you want to show by them? Maybe we will admit it.

6957 Mr. Cowan: I want to show how much each road gets to the point it is delivered, in order to show how much they get from the point where the lumber starts until it gets to that point, and I want to show as to each particular road, and I have no doubt the Commission will order them filed.

Examiner Burchmore: I will be glad to call it to the attention of the Commission——

Mr. Cowan: If the Commission did not require it, I could call a witness and ask him, but I do not think that is necessary. I am trying to avoid taking the time.

Mr. Jeffery: It is an awful job, your Honor.

Mr. Cowan: I do not think it is.

Mr. Marble: As I understand the matter, while the law is open to the interpretation that carriers should file these sheets, it has not been required by the Commission, but that upon the distinct understanding when called for they should be sent in, and in some cases to my knowledge division sheets have been secured for use when necessary, in order to determine issues before the Commission. My impression is these division sheets will be very useful, and that being my impression, my further impression is that if the request is presented through Examiner Burchmore, it will be required.

6958 But why not leave it that way, and if they should not order them, you could call your witness.

Mr. Cowan: That is precisely it. If the Commission calls for the division sheets I would not call the traffic managers whom I should otherwise call and examine.

Examiner Burchmore: Could you make that request specific now, or do you want all the division sheets, and if so, to what territories?

Mr. Cowan: I will say now that we want division sheets which apply to points in the Central Freight Association territory, in the Western Trunk Line Association territory and in the Trans-Missouri territory and to Texas and Oklahoma and New Mexico points. That will cover it.

Mr. Garwood: Is that just on lumber or everything?

Mr. Cowan: Just on lumber.

Examiner Burchmore: Yellow pine lumber or hard wood also?

Mr. Cowan: Yellow pine is all I care for.

Mr. Marble: It strikes me Judge Cowan has stated a larger request than he needs to make. The rates into C. F. A. territory in many cases break on base points, and the rates beyond the basing points would not be of interest in this inquiry. It is the division of
6959 the rates to which the tap line is a party that I think is important.

Mr. Cowan: That is what I am talking of, the joint rates.

Examiner Burchmore: And it will not be necessary to file such sheets as have already been filed.

Mr. Walter: We do not think it should be limited to the tap lines only. We think the Santa Fe division sheets will throw a little light.

Mr. Cowan: That is right; I am not exempting them. That means all trunk lines parties to this case, their divisions with other roads on through rates from originating territory to the points of delivery. I do not think it will be much of a job to file them.

Mr. Garwood: I would be glad if counsel could further consider the matter and get it down to as narrow a scope as will be useful to him. Of course we will be very glad to furnish him anything along that line that he desires, but I would be glad if he would limit it. I have about half a car load now of blue prints in my room upstairs, which I must insist that he take before he goes away.

Mr. Cowan: I am not through with my statement yet. I can only state one thing at a time.

Mr. Garwood: Pardon me, I thought you were through.

6960 Mr. Cowan: No, I am trying to get through the hearing this evening by seeing if I can eliminate the calling of certain witnesses, and it is all in good faith.

The requests made at New Orleans and repeated at St. Louis and again here for certain statistical information which I need not now describe—everybody knows what I mean—which Mr. Garwood has furnished; that is, he has it to furnish, for a part of this record, and which is to be furnished by the other roads, is as I stated yesterday morning, I believe, in no wise waived, and we ask it to be filed as promptly as conditions will permit by the trunk lines reaching the yellow pine territory.

Mr. Garwood: I will give it to you, Mr. Cowan.

Mr. Cowan: If it is just sent to the Commission. If you give me yours, I will simply turn it in.

Examiner Burchmore: It might be pertinent to inquire if counsel for the trunk lines present understand that their lines are preparing that information.

Mr. Cowan: I am informed in the case of the Cotton Belt that they have already sent that information to the Commission, and it is there. Mr. Dickinson asked me, intimating he is willing to
6961 furnish it, and Mr. Hughes said he was willing to furnish it, and Mr. Jeffery I believe said he was willing to furnish it for the Iron Mountain.

Mr. Jeffery: Yes; it is something we are very anxious to put in.

Mr. Cowan: And we will ask Mr. Coleman.

Mr. Coleman: The tonnage statistics?

Mr. Cowan: It is practically tonnage statistics, and the amount of lumber on which divisions are paid, and the amount on which none is paid.

Mr. Coleman: In the case of the Santa Fe, I submit the statement drawn up by our auditor, which shows the amounts paid up to the year 1907, I believe. Now, after that time——

Mr. Cowan: I think we had better have it down to date.

Mr. Coleman: That is just the point. In 1907 we no longer paid divisions to tap lines, and consequently we have no way of designating them in our way bills, you see.

Mr. Cowan: Your statement would show the absence of divisions.

Mr. J. J. Coleman: Judge Harlan accepted the statement we put in, which covered the amount of money we paid out during the time we were paying tap line divisions.

Mr. Cowan: We do not need to go back and restate that, if that is what you mean.

6962 Mr. J. J. Coleman: Now to be able to distinguish and select the lumber which came to us from the tap lines, or from the lines which we paid divisions to, as compared with some given us at a local point, we could not, for we have no means of designating it, we have no through billing. We explained it to Commissioner Harlan, and he said he thought the statement filed would be satisfactory to you, because it showed the final result.

Mr. Cowan: The point in this tonnage statement is to know how much of the tonnage is taken from mills which do not get tap line divisions from the trunk line road taking that tonnage, and how much of it comes from mills—I will use that expression—I do not mean to say the mills get the division, but you know what I mean—which do get the division. Then the aggregate amount of divisions that are paid to what we have been designating as tap lines. I can remember now those three important points in that request. There are probably some others.

6963 Mr. Jeffery: The blue prints are in there. You want the blue prints too?

Mr. Cowan: I want to get the blue print showing the connection with the main line tracks and saw mills on these respective lines. The reason I wanted that was because I was satisfied that in a majority of the cases here, or maybe not a majority, but in a good many cases, that that situation has not been shown like it would be in an engineer's office of the railroad company, because they have it in their offices with some accuracy.

Examiner Burchmore: Your requests are before the counsel and Commission.

Mr. Cowan: I would like to have those requests complied with so far as possible, and see that they are to be complied with, and if they are not, hoping that the Commission will make application to the roads to furnish the information in case they should not, we have no further examination from the trunk lines so far as we are concerned. The suggestions and requests that have been made heretofore with regard to what the Commission ought or ought not to do about calling witnesses we do not feel incumbent upon us to repeat, and with

this statement for the purpose of the record and in order that
6964 the audience may understand it, we rest our part of the case.

Mr. Wood: At this point I should like to interpose an objection in order that it may be spread upon the record along with Judge Cowan's request; an objection to the furnishing of these division sheets or a statement of the divisions as called for. I do not know of course what Mr. Marble had in mind in suggesting that he thought they would be helpful to a determination of the case. I cannot myself see how they can possibly bear upon any issue that is in the case, and that is our opinion in connection with the matter, and it involves a great deal of labor and detail and besides involves giving up information as to the internal management of the various railroad companies that are interested here and of their relations with each other in connection with a matter in which it seems to me that internal management and those relations have no possible relation to the case itself. We feel that we should interpose an objection to the request that Judge Cowan has made.

Mr. Marble: I would say simply that my idea was this: if the Commission — to decide that these short lines of railroad are altogether industrial facilities, that no division whatever should be allowed them on that account, then I do not see that the divisions would be
6965 of any assistance whatever. But if as to all of them or any of them the Commission is to decide that they are railroads entitled to switching allowances or to divisions of joint rates, then I can only speak for my own mind, that if I had to decide that question I should like to get the entire division of the joint rate out of which that division was to be made, so as to decide the reasonableness of the division.

Mr. Wood: You will understand those divisions vary, probably to the same point of destination, with respect to a great many different lines; and it is simply a matter of barter and trade between the railroads.

Mr. Marble: I understand, and there is no law governing it——

Mr. Wood: And they are no index, it seems to me of what a proper and fair division is.

Mr. Marble: I understand the weight of that testimony is open to very strong argument.

Mr. Cowan: But the same sort of differentiation arising from barter and sale applies on the divisions to the tap line.

Mr. Marble: You are going to argue the entire case if you start that.

Mr. Cowan: Then I will withdraw what I have said.

6966 Examiner Burchmore: Mr. Garwood, have you any witnesses whom you desire to introduce?

Mr. Garwood: Without reading it, your Honor, I will introduce in evidence the 13th, 14th and 15th paragraphs found on pages 103, 104, 105 and 106 of the joint and several answers of the defendants, Kirby Lumber Company and John H. Kirby, to the amended bill of complaint of the Maryland Trust Company, Trustee, Complainant, filed March 25, A. D. 1905, in the case of the Maryland Trust Company, Trustee, versus Kirby Lumber Company, and Houston Oil

Company of Texas, No. 54 in Equity, Circuit Court of the United States for the Southern District of the United States at Houston.

From the same answer I also introduce in evidence the 23d paragraph found on pages 110 and 111.

From the same answer I introduce that portion of the 35th paragraph found on pages 409 and 410, beginning at the word "that", on the first line of page 409.

I will not stop to read them at this time but will give them to the stenographer so he can spread them on the record.

Examiner Burchmore: I do not understand you desire those to be copies in the record?

Mr. Garwood: Well, that is the only copy I have got. I do
6967 not want to encumber the record with the whole of it. They are not very long.

Mr. Andrews: We interpose an objection. First, that the testimony is immaterial and irrelevant.

Second, that it is an unsworn pleading that the parties cannot be bound by.

And, third, that the substance, if not the exact language, has all been read into the record in the examination of the witness Kirby.

Mr. Coleman: On behalf of the Santa Fe I wish to interpose an objection that the Santa Fe is not a party to the proceeding and can in no way be bound by any opinions or allegations set forth in the pleading. It must be remembered that the Santa Fe Railway Company up to the time of the intervention of the intervening petitioners was the moving party in this case, and we object on the ground it is not binding upon us.

Mr. Cowan: This is the part which you had reference to yesterday or which you referred to?

Mr. Garwood: Yes, sir, largely.

Mr. Cowan: You did not refer to anything here now that you did not refer to yesterday?

Mr. Garwood: No, I think not.

Mr. Cowan: You gave certain pages.

6968 Mr. Garwood: I think it is covered.

Examiner Burchmore: The document will be received subject to the objections noted, but it cannot be copied into the record. I say that on the impression that your questions have covered it rather fully.

Mr. Garwood: Have we another copy?

Mr. Cowan: I think Mr. Hancock has a copy.

Mr. Coleman: I would like to ask if there was any paragraph of that which was not commented upon during the examination of the witness? It might save serving us with a copy of it.

Mr. Garwood: No, I think that covers whatever paragraph- are in there which refer to prior financial dealings of Mr. Kirby with the Santa Fe, which I took it from his testimony were merged into those about which he testified yesterday, and therefore I did not call attention to those other than those that I referred to by specific paragraph and page.

Mr. Coleman: Would you then object to furnishing us with one of those?

Mr. Garwood: That is the only one I have. It is subject to your inspection there.

Examiner Burchmore: You might take that book and mail us a typewritten copy of those sections.

Mr. Garwood: I will do that.

6969 Examiner Burchmore: And then you can keep the book.

Mr. Garwood: And I will be glad to give Mr. Coleman any of them he desires.

Examiner Burchmore: I take it there will be no objection to the filing of a typewritten copy?

Mr. Andrews: No, the objection goes to the form rather than to the substance. It is not even a signed copy, as far as that goes, but we do not make any objection on that ground.

Mr. Coleman: We do not waive our objection to the offer, however.

Mr. Garwood: We now ask that there be filed with the Commission a copy of the contract exhibited by Mr. Kirby yesterday, of January 28, 1900, was it?

Mr. Cowan: The one he pulled out of his *pcoet* and read from?

Mr. Garwood: Yes.

Mr. Andrews: June 28, 1900.

Mr. Cowan: I think he read that part of it.

Mr. Walter: Mr. Andrews knows about that.

Mr. Coleman: Mr. Garwood had it I think.

Mr. Garwood: I gave it back to Mr. Kirby.

Mr. Andrews: Just a moment. I presume we might as well make one objection to all of this as a conclusion, as they were all

6970 submitted yesterday to Commissioner Harlan and as I understand the matter he left without deciding the question. But the question was asked and the objections were all made, and when they are all in I will make the objection at one time so as not to interrupt you.

Mr. Garwood: Now as to the proposition made by the gentlemen that there may be private matters in there that you do not care to be made public, I of course recognize the force of that and I have no desire to have it made public, but I understood you to say you had no objection to filing the matter with the Commission.

Mr. Andrews: We have repeatedly offered to leave them with the Commission for inspection but not to file them as a record in the case.

Mr. Garwood: If you will furnish to me a copy of that paragraph of the contract to which reference was made, and also that paragraph which I think is immediately preceding it, relative to the construction of the branch of the Santa Fe from Somerville to Silsbee within a limited time, I would have no occasion for any of the other parts

Mr. Andrews: Furnish it to you personally?

Mr. Garwood: To go into the record.

6971 Mr. Andrews: That was read into the record yesterday.

Mr. Garwood: Substantially all of that was, I think, but

the preceding paragraph was not. I take it there would be no objection to that, so that difficulty might be obviated with reference to that.

Now, while the testimony was fairly well covered by Mr. Kirby yesterday I introduce copies of the Conveyances from the Kirby Lumber Company and Mr. Kirby to Mr. Chapman as testified to.

Mr. Andrews: Are those certified copies from the record?

Mr. Garwood: Yes, sir; I take it that they are correct. I note this, however, that that is a pencil signature for the clerk, which is a little unusual.

Mr. Andrews: If it is correct I do not care anything about it except that its correctness is ascertained.

Mr. Garwood: You might correct it if it is not.

Examiner Burchmore: Is there any objection to the filing of that agreement?

Mr. Andrews: I have no objection. It is a matter of public record.

Mr. Cowan: Assuming it is a correct copy.

Examiner Burchmore: Well, it is a correct copy as you
6972 understand?

Mr. Garwood: It is certified to by the clerk.

Mr. Cowan: We assume it is, but in case it is found to be incorrect it can be corrected.

(Paper referred to was marked and filed and is attached hereto.)

Mr. Garwood: As I understand it the relations of the Industrial Lumber Company and the Southwestern Lumber Company, of which Mr. Ripley is president, have been quite fully gone into at prior hearings, so we will not at this time take up any time to go into that, but in order that there may be record evidence in addition to the testimony heretofore given I file a certified copy of a conveyance or contract between the Southwestern Lumber Company and the Industrial Lumber Company.

Mr. Andrews: Where is that on record?

Mr. Garwood: Lake Charles, Louisiana, referring to the original contract of conveyance concerning which Mr. Parks has testified. I ask that it be filed as a part of the record.

(Paper marked and filed and is attached hereto.)

6973 Mr. Garwood: I now have a summation of the shipments by distribution to the various states of 51 yellow pine lumber concerns, all of which, with the exception of a few which are noted are interested in various short line railroads, from January to October 10th, showing the distribution by states, similar to the information that has been furnished by a number of intervenors. This compilation has been made under the direction of Mr. George K. Smith, of the Lumbermen's Association, and is statistical/y in its nature, and I could just spread it on the record.

Mr. Cowan: How many copies have you?

Mr. Garwood: That is the only one I have.

Mr. Andrews: If it is made up by the owners of those properties

personally, I have no objection to it, but I understand that he gets his statistics for his newspaper in a very different way from what you would get them.

Mr. Garwood: My understanding from him is that these are made up by reports from the owners of the property.

Mr. Andrews: I do not think those reports are made in a way which we would be willing for this to go in without objection, coming from that source. It may be that you can show that they are correct. We have no objection to the figures, but we would
6974 like to have assurance of their correctness.

Mr. Cowan: I wonder if the Department of Commerce and Labor, or the Forestry Department do not have those figures?

Mr. Garwood: I will just ask Mr. Smith how they are made up.

Examiner Burchmore: Do you wish him to take the stand?

Mr. Garwood: Yes.

6975 GEORGE K. SMITH was called as a witness, and having been duly sworn, testified as follows:

Mr. Garwood: Do you occupy any official relation with reference to the Lumbermen's Association?

Mr. Smith: I am Secretary of the Yellow Pine Manufacturers' Association.

Mr. Garwood: Was this statement which I now present to you made up under your direction?

Mr. Smith: It was.

Mr. Garwood: Please state to the Commission in what manner it was made up, and from what sources the information was gathered.

Mr. Smith: We have monthly report cards, which we call our clearing house, coming in from about 300 manufacturers. We selected 51 of these who are reporting regularly from month to month, and at the time this was made up, we had not the reports for November and December, consequently we took the ten months; and the original cards for each company are these jackets, from which the reports were compiled. They are authentic in that regard, in that they come in from each company each month showing the distribution by states, and if you would like to inspect them, or have any one inspect them, you are at liberty to do so.

6976 Examiner Burchmore: Would it be of interest to attach a blank card to your report, showing in what form the reports come in?

Mr. Smith: I would be glad to do it.

Mr. Garwood: Yes, we would be glad to do it.

Mr. Andrews: Would you let me see one of those cards?

Mr. Smith: Yes, sir. (Producing card.) Is there any particular firm you would like?

Mr. Andrews: No.

Mr. Smith: There is the Southern Lumber Company of Warren.

Mr. Andrews: There is one each month?

Mr. Smith: And they give the number of feet which go into each state? We have been doing this for a great many years. It was

not gotten up for any purpose such as this, to show where the lumber goes.

Examiner Burchmore: Are those reports considered confidential?

Mr. Smith: Yes, sir, they are not supposed to be given out to show where each shipper sells—but I do not consider it any breach of confidence to show where the total amount of lumber went.

6977 Examiner Burchmore: No, but I wondered if the mills were rendering reports to you in a confidenital way.

Mr. Smith: They are rendering them with the idea that the information as to what an individual mill is shipping to Ohio, say, is not to be given out, but to make up the total of all the mills shipments going into a single state to show the volume going into that state.

Mr. Andrews: Why did you select 51 or 52 out of the 300?

Mr. Smith: Well, we selected those, with very few exceptions—I notice one or two, that have tap lines. We could give others, if desired, but the request came to select those where the lumber originated on tap lines.

Mr. Andrews: Did you select all that have tap line divisions?

Mr. Smith: I do not think we did.

Mr. Andrews: Why did you omit some of them?

Mr. Smith: Simply we thought we had enough. We couldn't select more, if required.

Mr. Garwood: The time was short, I will state, Mr. Andrews, that we tried to cover the larger interest, and get as much as we could during the limited time that we could get the information.

Mr. Cowan: The principal manufacturers are represented?

6978 Mr. Garwood: Yes, I think so.

Mr. Andrews: You have 300——

Mr. Smith: No, we have 218 who have reported regularly for 12 months consecutively, and out of the 218 we selected 51.

Mr. Andrews: And these 51 are all concerns that get tap line divisions?

Mr. Smith: There are a few who do not.

Mr. Andrews: And they represent the more prominent lumber companies?

Mr. Smith: Yes.

Mr. Andrews: I really don't know, your Honor, anything about the accuracy of this, and I do not believe there is anything reflected about the accuracy of it from the statements made. I do not think we would insist upon any objection to it, if they want to put it in for whatever it is worth.

Mr. Cowan: Let that go with the suggestion that in case we should want any of the others Mr. Smith would be willing to make it up and forward it to the Commission.

Mr. Smith: Yes, sir, anything I have.

Mr. Garwood: Anything that is material to this inquiry.

Mr. Cowan: I mean anything of the same sort with re-

6979 gard to other companies.

Mr. Garwood: Yes.

Examiner Burchmore: What information is that statement intended to give?

Mr. Garwood: It is intended to show the movement of the lumber, states, and the amounts in which it goes to the different states.

Examiner Burchmore: It might be well to ask the witness whether he thinks that that statement clearly indicates the territory to which lumber moved, and the proportion in which it moved to those territories.

Mr. Garwood: It gives all the territory.

Mr. Smith: It gives all the states in the United States.

Examiner Burchmore: Well, you have selected certain mills. Does that fairly show the trend of traffic?

Mr. Smith: I think it is the fair average, because I believe the better class of mills distributes their products over a wider territory than the smaller class of mills.

Mr. Coleman: How many mills do not report to you?

Mr. Smith: Well, there are about 1700 mills on my mailing chain.

Mr. Coleman: And you only get reports from——

Mr. Smith: 300, and 218 regularly.

6980 Mr. Coleman: And then you selected fifty of those?

Mr. Smith: Yes, sir.

Mr. Coleman Were you advised or aided in your selection in any manner?

Mr. Smith: No, sir, only in the way of selecting those companies who are interested in short line railroads largely.

Mr. Coleman: I do not suppose it would have much value if it represents such a small proportion.

Mr. Garwood: That is a matter of argument.

Examiner Burchmore: I think it may be received for what it is worth.

Mr. Andrews: Does that show the list of concerns which are figured in the report?

Mr. Smith: Yes, sir, at the head of each column.

Mr. Garwood: It shows also the tap line that is connected with it?

Examiner Burchmore: Could you furnish a copy to Judge Andrews?

Mr. Garwood: How many copies have you got?

Mr. Smith: We have none, but that. It could me made up, if desired.

Mr. Garwood: If you could give us two more, one for us

6981 and one for the other gentleman, we would be obliged.

Mr. Coleman: I think we would like one, if it would be just as easy.

Mr. Smith: It would not be just as easy. It has to be made up with pen and ink.

Mr. Coleman: I would like one.

Mr. Andrews: May I ask you where these 1700 pine mills are located, in what states?

Mr. Smith: I could not tell you what states, but we keep a list

of the mills from Arkansas, Texas, Louisiana, Mississippi, Alabama, and a few in Georgia and Florida.

Mr. Andrews: And they are substantially those mills in Texas, Louisiana, Arkansas, Mississippi?

Mr. Smith: And Alabama.

Mr. Andrews: You do not have them all, do you?

Mr. Smith: No, we try to keep a list of mills of twenty thousand feet a day and up. Anything below that we do not attempt to keep track of because they are so movable that you cannot know where they are.

Mr. Andrews: Will you file that list of 1700 mills, with the location of them, with the Commission?

Mr. Smith: I would be glad to run our Addressograph chain, and send it to them, I think.

6982 Examiner Burchmore: In what form would it reach the Commission, in separate cards?

Mr. Smith: If you desire, or on strips, if you desire.

Examiner Burchmore: We would take it on a strip.

Mr. Smith: You know what an Addressograph is. We will transfer them in any way we can.

Mr. Andrews: I supposed it could be written on several sheets of legal cap. I see no objection to his running through a strip of paper.

Examiner Burchmore: Do you think it would be worth while to have it filed in this record?

Mr. Andrews: I can conceive of reasons why I might like to discuss it.

Mr. Coleman: Do all the large mills report to you from that country?

Mr. Smith: No.

Mr. Coleman: For instance the Kirby mills?

Mr. Smith: No.

Mr. Coleman: Long Bell?

Mr. Smith: No.

Mr. Coleman: Industrial?

Mr. Smith: No, sir.

6983 Mr. Coleman: Could you name a few others of the larger ones?

Mr. Smith: That do?

Mr. Coleman: No, that do not. I am merely getting at the value of that statement as representing the general situation.

Mr. Smith. Well, I think Lutcher-Moore do not, and the Great Southern Lumber Company at Bogaloosa does not.

Mr. Coleman: Well, that is enough.

Mr. Cowan: What about my freind, Mr. Johnson of the Frost-Johnson Company; does he report?

Mr. Smith: Yes, sir.

Mr. Walter: I might say you called for the last year's report. It is embraced in that list. I suppose you do not care to have it filed separately?

Mr. Cowan: What report?

Mr. *Cowan:* You asked us to file a statement of our tonnage, and it is in that. Now do you want an additional report filed for his line?

Mr. Cowan: I think you had better file it. That information comes from Mr. Smith, and I asked Mr. Johnson to file it, and I like to read his handwriting anyway. He doesn't mind.

6984 Mr. Walter: We will offer it now and have it in the record, for the year ending December 31st, 1910.

(The paper presented by the witness was marked Exhibit No. 1, Witness Smith, January 31, 1911). The exhibit was afterwards returned to the witness for the purpose of copying.

(Witness excused).

Mr. Garwood: We introduce a copy of letter of Mr. Kirby, as President of the Kirby Lumber Company to Mr. Yoakum, of date November 8th, 1903, as found in the records of the suit above referred to in the report of the Master in Chancery; that was the letter which was referred to by Mr. Kirby yesterday.

Mr. Andrews: To that we interpose the objection that the matter is irrelevant and immaterial, that no contract was ever consummated, and no transaction ever had under it, and no property was ever controlled by virtue of the contract in any way at all, and that the whole subject matter has long since expired, and is entirely dead and is wholly irrelevant and immaterial to any issue in this hearing; and the further objection that the substance of it has been read

6985 into the record on the cross examination of the witness Kirby already.

Examiner Burchmore: Do you desire to file that document?

Mr. Garwood: Yes, I will file a copy of it.

Examiner Burchmore: Judge Andrews' objection is noted on the record. I shall have to receive the document subject to that objection.

Mr. Andrews: I understand. I am merely going through the formalities.

Mr. Wood: What contract is that?

Mr. Garwood: A letter of Mr. Kirby to Mr. Yoakum of date November 8th, 1903, which has been referred to by Mr. Kirby in his examination yesterday.

Mr. Wood: I think I should have to interpose the same objection to the correspondence with Mr. Yoakum. I do not see that it bears on this controversy.

Examiner Burchmore: Your objection is noted, Mr. Wood.

(The paper referred to is filed, and attached hereto).

Mr. Garwood: Purely as a matter of form, to make the record clear in connection with the exceptions taken we renew the notice to produce which was made at the hearing at New Orleans on the 8th of December, 1910, as to your cost sheets, and so forth. You are familiar with the notice. I understand the gentlemen de-

6986 cline to produce such information.

Mr. Cowan: We have done it several times.

Mr. Andrews: We have repeatedly repeated it.

Examiner Burchmore: Is this the one which Mr. Diebold introduced?

Mr. Andrews: No, it is the one in regard to the cost, practice, and so forth.

Examiner Burchmore: Has any action been taken by the Commissioner?

Mr. Andrews: It was excluded.

Mr. Garwood: And I renew it, and I now make a formal request in pursuance of this notice, and it is formally refused, as I understand.

Mr. Coleman: In view of the importance you attach to several contracts in this case, I thought I would ask you if you would mind producing the Trust Company deed which Mr. Parker is trustee in, regarding the financing of the Beaumont & Great Northern Railway, and the dealings of Mr. Carlisle.

Mr. Garwood: Some one asked for some document.

Examiner Burchmore: With reference to that, let me say
6987 that the testimony with respect to the Beaumont & Great Northern is filed in a separate record made up in their case. Mr. Carlisle has forwarded to the Commission,—whether it was requested or not, I do not remember, but at any rate he has forwarded a copy of the second mortgage in which Mr. Orr is Trustee. It was my impression that at the hearing the first mortgage was filed.

Mr. Coleman: No, at that time I believe serious objection was made because that was irrelevant, and I believe the attorney for Mr. Carlisle qualified it is impertinent. Now it seems to have been considered by the gentlemen on the other side that such things are material. Mr. Carlisle in his testimony stated——

Mr. Garwood: Excuse me just a moment. I must insist, your Honor, that that hearing was closed, and Mr. Carlisle is not represented here, and I certainly should not break into any other man's case and assume to act for him in a case in which I have no connection.

Examiner Burchmore: I think your objection must be sustained, but I will say this, that I understand from what Mr. Coleman says that he desires that mortgage to be filed in connection with the Beaumont & Great Northern case, and his request or desire will
be brought to the attention of the Commission for such action
6988 as they may deem proper, together with the notice that Mr. Carlisle and his attorney were absent when the request was made here.

Mr. Coleman: I wanted to be a good deal easier than that. I understood from Mr. Carlisle that the Mr. Parker referred to was in Mr. Garwood's office, and I was going to ask Judge Garwood if he would request Mr. Parker to file just that part which was pertinent to the case. I did not wish to make the demand for the entire document, and I will leave it in that shape.

Examiner Burchmore: Let me suggest, if parties can agree on that matter here, it would be better, perhaps.

Mr. Garwood: I should certainly not accept any notices in a case in which I have no conceivable connection. Mr. Carlisle had an attorney there representing him who seemed to be entirely capable——

Examiner Burchmore: We will not discuss that any further at this time. Have you any further request to make, Judge Garwood?

Mr. Garwood: No.

Examiner Burchmore: May I inquire what further testimony, if any, counsel propose to introduce at this hearing, so we
6989 may ascertain whether it is wise to adjourn until tomorrow?

Mr. Coleman: It has just been suggested to me that the Beaumont hearing was very pertinent to this case, and that on motion to make it a part of this case it perhaps would be favorably considered. I take it there is no connection. It deals with the general proposition. I will make the motion for the consideration of the Commission that the record in the Beaumont case be made a part of this record.

Examiner Burchmore: Very well, your motion will be noted.

Mr. Garwood: Before closing, your Honor, I am not thoroughly familiar with the record in the Star Grain case, but my information is that that record shows that there were cancellations of through rates upon the part of the Santa Fe from points on the Iron Mountain, and its short line connections on March 1st, 1900; from points on the Kansas City Southern and its short line connections, March 1st, 1903; from the Frisco and points on its short line connection, March 31st, 1904; from points on the Cotton Belt and its short line connections, October 1st, 1907; from points on the short line connections of the T. & P., October 1st, 1907——

Examiner Burchmore: The Star Grain case contains some showing to that effect. Whether your dates are correct, I do not know.

6990 Mr. Garwood: Is that substantially correct?

Mr. J. J. Coleman: That is all in the Star Grain case.

Examiner Burchmore: It is all in there. Whether your dates are correct, of course I do not remember.

Mr. Garwood: If these dates are not correct, I would be glad if the Commission would call attention to it.

Mr. J. J. Coleman: Did I understand you to say that the record shows that the Santa Fe cancelled the rates?

Mr. Garwood: That is the impression I had.

Mr. J. J. Coleman: That is not the understanding with the Cotton Belt and T. & P.

Mr. Garwood: I understood the divisions allowed the Cotton Belt were so unsatisfactory to the Cotton Belt that they cancelled them.

Mr. J. L. Coleman: I think that is what the record showed

Mr. Garwood: So it is rather vague——

Mr. J. J. Coleman: I just wondered if you wanted to know if those are all included in that record. They are.

Mr. Garwood: We will have a few more witnesses, perhaps three or four, and it is now after five o'clock, and we can easily get through

with them tomorrow, that is if the cross examination is not too extensive.

Examiner Burchmore: So that counsel may make their
6991 plans, I would like to inquire how long you think it would take, and also whether there are other witnesses to be called by other parties.

Mr. Garwood: I think we will easily get through tomorrow.

Examiner Burchmore: Do the Trunk Lines propose to introduce any testimony?

Mr. Wood: It is not the present expectation of the Trunk Lines to introduce testimony. I wish to make that statement for all lines, but if there is any contrary policy, I presume it can be stated.

Examiner Burchmore: Any further statements counsel wish to make tonight?

Mr. Cowan: In connection with Mr. Wood's suggestion, we would like to know—I don't know whether we are entitled to it or not,—but we want to know what the position of the Trunk Lines may be, or rather what it is now, whether they are going to crawl to bed with us or the other follow. We are prepared to express that desire.

Mr. Jeffery: Do you also want to know what the Santa Fe's attitude is? I did not know whether you wanted any answer from them or would let their actions speak stronger than their words.

6992 Mr. Cowan: Their attitude would seem to indicate they are very strongly opposed to divisions.

Mr. Garwood: I do not think that is material. I do not think it matters much to the Commission.

Mr. Cowan: It does. They are the people who cancelled out the rates, and were the occasion of this proceeding. When they cancelled out their rates, the tap lines and others came in to tell the Commission "We want the Commission to suspend the cancellations", and they have sat here with their mouths closed—I do not say offensively, perhaps that is the best for all of us but——

Mr. Jeffery: So far as the Iron Mountain is concerned, we are in the attitude of the innocent bystander, and my only hope is that we do not get what the innocent bystander usually gets.

Mr. Cowan: I move to strike out the word "innocent". You are a bystander, all right.

Mr. Garwood: Well, I believe it is the general desire if the court can, to suspend about this time.

Examiner Burchmore: We will now adjourn to ten o'clock tomorrow morning.

Whereupon, at five o'clock P. M., the hearing in the above entitled matter was adjourned to Wednesday, February 1st, 1911, at 10 o'clock A. M.

6993 CHICAGO, ILL., *February* 1, 1911.

Met pursuant to adjournment at 9:30 A. M.

Present: Examiner Burchmore; other parties as before.

Mr. Walter: We will call Mr. Church.

W. Q. CHURCH was recalled as a witness and having been previously sworn, testified as follows:

Mr. Walter: What is your business, Mr. Church?

Mr. Church: Traffic manager of the Louisiana Central Railroad.

Mr. Walter: How long have you been in the railroad business?

Mr. Church: Twenty-eight years.

Mr. Walter: Briefly state what that experience was.

Mr. Church: Fifteen years with the Santa Fe, six years with the Kansas City Southern and five years with the Louisiana Central.

Mr. Walter: With the Kansas City Southern what was your position; what department?

Mr. Church: I have always been in the traffic department,
6994 practically.

Mr. Walter: Have you examined the current tariffs on lumber?

Mr. Church: I have.

Mr. Walter: Have you examined Southwestern Lines Tariff 48-B, I. C. C. No. 804?

Mr. Church: I have.

Mr. Walter: Have you prepared a statement as to what that tariff shows?

Mr. Church: Yes, sir.

Mr. Walter: Hand that statement to the stenographer. We offer it as an exhibit to this witness' testimony. He may briefly explain what it shows.

Mr. Andrews: I think we may be entitled to see it before it goes into evidence or otherwise.

Examiner Burchmore: What is it, a statement of what the tariff shows?

Mr. Walter: It is a brief statement of what the tariff contains.

Mr. Andrews: I do not know that we have any objection

Mr. Coleman: Well, I have. In your brief you can explain the tariff if you want to.

Mr. Walter: We shall insist that this witness, who is an
6995 expert tariff man, can state what he finds from the tariff

Examiner Burchmore: As I understand, Mr. Church, this is a short description or analysis of that tariff which you have made up?

Mr. Church: Yes, sir.

Examiner Burchmore: I think it may be received, subject to the objection. It may be inaccurate and reference may be made to the tariff itself as to whether it is accurate.

Mr. Walter: Yes.

Mr. Andrews: I have not any idea whether I have any objection to it, but I should like the privilege of seeing whether I have.

(Mr. Andrews then proceeded to examine the paper.)

Mr. Andrews: The first objection is that the tariff is the best evidence and that is on file with the Commission. The second objection is it merely states the conclusions of the witness. The third objection is that it appears upon its face to be not accurate in detail, in that it does not cover the entire subject matter about which it purports to speak, and therefore could not be accurate in the statements made. The fourth objection is that it is utterly irrelevant
6996 and immaterial to any issue we are hearing here. And in order to avoid repetition, if you will permit me to do so, I will make that objection to all the testimony that they are going to ask him about on this proposition and then say nothing more about it.

Mr. Coleman: I make the same objection.

Examiner Burchmore: The objection will be noted, and the document will be received for what it is worth, subject to those objections.

(The statement so offered and identified was received in evidence and thereupon marked Exhibit No. 1, witness Church, received in evidence February 1, 1911, and is attached hereto.)

Mr. Walter: About how many lumber producing roads in Missouri, Louisiana, Arkansas and Texas are named as parties to that tariff, in round numbers?

Mr. Church: Upwards of 215. I do not know accurately.

Mr. Walter: Of those roads, does your statement give the names of those that are given the right and do by that tariff participate in through rates to Santa Fe points.

Mr. Church: I think so.

Mr. Walter: I notice a list of the g[illegible]
6997 as to what is true of the Houston & Texas Central, the San Antonio & Aransas Pass, the Galveston, Harrisburg & San Antonio and the Trinity & Brazos Valley Railroad as to lumber producing tonnage from the main line.

Mr. Church: I do not think they produce very much. I do not know of any.

Mr. Walter: What is the condition of the lumber lands along the main line?

Mr. Church: They are practically cut out.

Mr. Walter: Now, what is the difference in that tariff between basis 5 and basis 6; what is its range?

Examiner Burchmore: Pardon me. Are you going into the question of the group adjustment of rates?

Mr. Walter: No, just the difference between these two.

Mr. Cowan: Does not the tariff show that?

Mr. Walter: Yes.

Mr. Cowan: What in the world can be the use of taking it up with the witness?

Mr. Walter: I will show you later. It is easier to take an objection to the question and let us proceed.

Mr. Church: The range is three and one-half cents.

Mr. Cowan: Of course I do not understand that answer.
6998 He says the range is three and a half cents. I would not know from that what he meant.

Mr. Walter: Give me an illustration.

Mr. Church: The rate from any typical point, say Perry, from group 5, is 24 cents. From group 6 it is 27½ cents. That is generally the range through this tariff to all Santa Fe consuming points. In some places the range may be greater, but that is the general average.

Examiner Burchmore: You mean that is the prevailing differential or difference?

Mr. Church: Yes, sir, the average.

Mr. Cowan: From where?

Mr. Church: Producing points on the Santa Fe and producing points on other lines.

Mr. Walter: That are parties to this tariff?

Mr. Church: Yes.

Examiner Burchmore: The difference between the Santa Fe rate from a point of origin on its line and another company's rate from a point of origin on its line is usually three and one-half cents in the groups you have given?

Mr. Church: In connection with the Santa Fe, yes.

Mr. Cowan: I suppose that means if they see fit to ship
6999 over the Santa Fe they have to pay that much more to do it?

Mr. Church: That is what this tariff shows.

Mr. Coleman: Now we are pretty well agreed that the tariff speaks for itself. If——

Examiner Burchmore: I understand this is simply preliminary.

Mr. Coleman: If they are going to go into that, we will merely promise our right to insist upon a very lengthy cross examination.

Mr. Walter: We have no objection to that.

Mr. Coleman: Well, it will use up time.

Mr. Walter: You have as much as we have. That is to say, when a shipment is made from one of these connecting lines over the Santa Fe, the basis is about three and a half cents higher than the local rates on the Santa Fe?

Mr. Church: Yes, sir.

Mr. Walter: I will ask you what effect that difference has upon the mills located exclusively upon the Santa Fe.

Mr. Church: It tends to give them a monopoly of that business.

Mr. Walter: What effect does that have upon the purchaser at these local points, of lumber.

Mr. Church: It restricts his purchasing.

7000 Mr. Cowan: I would like to inquire if these gentlemen are asking for through routes and rates and divisions with the Santa Fe in this proceeding.

Mr. Walter: A number of them that have filed complaints are asking.

Mr. Cowan: Who?

Mr. Walter: For example, the Peach River lines.

Mr. Cowan: Any others?

Mr. Garwood: The Beaumont & Great Northern ask for it.

Mr. Cowan: I am trying to get at your position, if you are trying to get joint rates with the Santa Fe I would be glad to see you have it, but I have never found out your position.

Mr. Garwood: I do not think we are called upon to argue the case at this point. We have several positions.

Examiner Burchmore: I do not think the Commission intends to go into the blanket rate question and the adjustment of rates at this time.

Mr. Walter: You will recall in this contract with Mr. Kirby, which was filed, dated along about 1900—we have shown the cancellations, and we want to show that the same situation which was promised under that contract, namely, an advantage to
7001 the Santa Fe producing mills, is still being accorded the intervenors in this case. That is the purpose.

Mr. Cowan: My remark is with the qualification of course that they cut out the divisions. When they do that, I think they are entitled to the through rate.

Mr. Walter: What can you say as to the St. Louis, Iron Mountain & Southern points?

Mr. Church: I think the range there is even greater, perhaps as high as nineteen cents against them.

Mr. Walter: That is to say, to reach a local point on the Santa Fe from some one of the Iron Mountain points in connection with the Santa Fe, they will have to pay as high as nineteen cents from certain points?

Mr. Church: That is my understanding.

Mr. Coleman: Can you give us an example of that right off the bat?

Mr. Garwood: I suggest the cross examination should be deferred.

Mr. Coleman: No, but you are going into something and the witness says he understands what the tariff says, and I think we are wasting a lot of time.

Examiner Burchmore: Unless there is serious objection to
7002 some of these questions, suppose we allow counsel to proceed with the direct examination.

Mr. Cowan: We made a serious objection at the start that to allow the witness to prove what is in a tariff before the Commission is absurd.

Mr. Walter: What would you say, Mr. Church, if you know, in a general way, is the comparison between the amount of tonnage that originates on the lines that are permitted to carry through rates with the Santa Fe, as compared to the tonnage which would be made available to consumers in Santa Fe territory if all the lines named in the tariff were permitted to carry through rates on a competitive basis?

Mr. Andrews: The fifth objection to that is that the witness has not shown himself qualified to answer the question as an expert or statistician or otherwise.

Mr. Cowan: We have no objection to his testifying if he knows, but he should not guess at it.

(Question read.)

Examiner Burchmore: Isn't that rather a large question to answer?

Mr. Walter: Well, if he can answer it——

Mr. Cowan: Let him take a shot at it if he thinks he
7003 can.

Examiner Burchmore: Give your opinion, Mr. Church.

Mr. Church: I think the percentage is perhaps eight to one.

Mr. Walter: Which would be the eight and which the one.

Mr. Church: By including these additional lines, you would have at least eight more sources of supply than you have at present.

Mr. Walter: Would it be eight times the tonnage probably available?

Mr. Church: I think so in a general way.

Examiner Burchmore: Is not the purport of your testimony something like this? You recall the Star Grain Case, as I remember it, opened up Santa Fe markets to the Cotton Belt mills, did it not, and you are now saying that the same condition that formerly obtained to the Cotton Belt mills going into the Santa Fe markets now obtains with respect to Iron Mountain mills, for example?

Mr. Walter: Exactly.

Examiner Burchmore: Can you not shorten it up by asking him that?

Mr. Walter: You are familiar with the Star Grain case?

Mr. Church: Yes, sir.

7004 Mr. Walter: The Commission made an order opening up joint rates to certain points on the Cotton Belt?

Mr. Church: Yes, sir.

Mr. Walter: Was that complied with by the Santa Fe, so far as you know?

Mr. Church: So far as the order is concerned; yes, sir.

Mr. Walter: When did that order expire, if it has?

Mr. Church: It expired, I think, the first of September, and the rates were restored to the old basis December 10, 1910.

Examiner Burchmore: Joint rates have been cancelled?

Mr. Church: The order of the Commission has expired, so they restored the same basis which obtained to other lines. That is, the restoration of the old rates from Cotton Belt main line points, but not from short lines.

Examiner Burchmore: Was that change suspended by the Commission?

Mr. Church: I do not know as to that.

Mr. J. J. Coleman: The rates in effect from Cotton Belt points to points on the Santa Fe other than to Oklahoma and New Mexico are the same as carried from mills on the Santa Fe.

Examiner Burchmore: At the present time?

7005 Mr. J. J. Coleman: Yes.

Mr. Walter: But the order in the Star Grain case when

it expired was no longer carried in effect by the Santa Fe and raised the rate?

Mr. J. J. Coleman: No.

Mr. Cowan: Let us let this witness answer. He is making his guesses.

Mr. Andrews: I rise again to protest, that it seems to me to be so utterly inadmissible to have a bunch of witnesses sit around here and talk about what a mass of records discloses, and I must again object that we are not only wasting time, but are getting a lot of valueless information.

Examiner Burchmore: If you could ask some general brief question——

Mr. Cowan: How long is it going to take on cross examination to show he does not know anything about it?

Mr. Garwood: It might possibly take you to eternity.

Mr. Cowan: Well, it will not.

Examiner Burchmore: Is it your understanding that in complying with the Commission's order in the Star Grain case the Santa Fe, or some of them, at least, by joint action of the carriers, extended those joint rates thus established back to the tap lines
7006 and gave the tap lines divisions of those rates?

Mr. Church: No.

Examiner Burchmore: They applied only from points on the Cotton Belt?

Mr. Church: That is all.

Mr. Walter: When that order expired, did the Santa Fe raise the rates from the Iron Mountain or reduce the rates from certain points, if you know, before the order expired?

Mr. Church: When the rates expired, did they raise them?

Mr. Walter: What action did they take?

Mr. Church: It is my understanding they raised the rates.

Mr. Cowan: Now the idea of a man saying his understanding, when the tariff shows.

Examiner Burchmore: That is his understanding. The Commission will refer to the tariffs.

Mr. Walter: We will proceed to the next tariff.

Mr. Cowan: It seems to me impossible to have a witness testify as to his understanding of the tariffs, when the tariffs speak for themselves.

Mr. Walter: Yes, the tariffs speak for themselves.

Mr. Cowan: And these gentlemen tell me he is entirely
7007 mistaken as to his understanding. That is the reason I object.

Examiner Burchmore: I will ask Mr. Walter to state the facts as he understands them, and allow reference to be made by the Commission to the tariffs for verification of his statement, if you wish it in the record.

Mr. Walter: My understanding is this, before the order expired in the Star Grain case they reduced the rate from Santa Fe points to these points in Oklahoma, for example, and thereby brought about the difference which the Commission had condemned——

Examiner Burchmore. Is it your understanding that the order in the Star Grain case did not fix any specific rate, but ordered them to maintain the Santa Fe rate from the Cotton Belt mills? I may be wrong, but that is my understanding.

Mr. Andrews: That illustrates the objection we have made. It is all of record, and we are sitting here guessing about it.

Mr. Walter: Let that go, and we will take up the next tariff. Have you examined Southwestern Lines Tariff 50-C, I. C. C. 768?

Mr. Church: I have.

Mr. Walter: That tariff names rates on lumber from certain lumber producing lines in Arkansas, Louisiana and Texas to
7008 points in Arizona, Arkansas, Colorado, Iowa, Kansas, Missouri, Nebraska, New Mexico, Utah and Wyoming?

Mr. Church: Yes, sir.

Mr. Walter: About how many lines are parties to that on which lines lumber is produced in greater or less degree?

Mr. Church: Upwards of 235.

Mr. Walter: Out of that total number, how many are permitted by that tariff to carry rates on lumber to Santa Fe System points except Santa Fe points in New Mexico?

Mr. Church: I think twenty.

Examiner Burchmore: You do not know whether any other tariff contains such rates from other system points?

Mr. Church: I have not examined any other tariffs recently.

Mr. Walter: Do you know of any others that do?

Mr. Church: No.

Mr. Walter: My information is that they do not. If that is not correct, let us have it stated now.

Mr. Coleman: You have an expert here. We will show you where you are incorrect, when our turn comes.

Mr. Walter: Briefly state the effect of that tariff on destination in Kansas, as to lumber rates.

Mr. Church: To local points it restricts the consumer's market.

7009 Mr. Walter: What is the differential, speaking in cents per hundred pounds? In this case we will offer the statement as prepared as to that tariff.

Examiner Burchmore: I think we are consuming time needlessly. I feel——

Mr. Walter: We will shorten it up by simply filing these statements and asking the witness if they are correct as he understands them.

Mr. Cowan: If he has figures, they may be all right, but I do not know.

Examiner Burchmore: I think you can cover the point by making the general statement that your understanding is that the general adjustment is so and so, and then in your brief you can refer to the tariffs themselves for what those tariffs show, and the Commission will go to the tariffs undoubtedly, rather than rely on the testimony of this or any other witness as to what the tariffs contain.

Mr. Walter: Have you prepared a statement as to tariff 50-C, I. C. C. 768?

Mr. Church: Yes.

Mr. Walter: Hand it to the stenographer.

Mr. Cowan: We make the same objection.

7010 Examiner Burchmore: It may be received subject to the original objections.

Mr. Cowan: Then it will be subject to cross examination as to a lot of statements in typewriting.

Examiner Burchmore: The objection will be noted.

(The statement so offered and identified was received in evidence and thereupon marked Exhibit No. 2, witness Church, received in evidence February 1, 1911, and is attached hereto.)

Mr. Walter: Are there any joint rates, so far as you have been able to find them, from any of those points to New Mexico points?

Mr. Church: No, sir.

Mr. Walter: Of those twenty lines that carry those joint rates, two of them are Santa Fe lines, are they?

Mr. Church: Yes, sir.

Mr. Walter: The Gulf, Colorado & Santa Fe, and the Texas & Gulf?

Mr. Church: Yes.

Mr. Walter: Is there any tap line, speaking in general terms?

Mr. Church: Burrs Ferry, Browndel & Chester.

7011 Mr. Walter: That is the nearest you can come to a tap line?

Mr. Church: Yes, sir.

Mr. Walter: Have you examined Santa Fe tariff 5,769-A, I. C. C. No. 4080.

Mr. Church: I have.

Examiner Burchmore: May I ask you what tap lines you would expect to find in a tariff of that sort?

Mr. Church: Under the situation, only that one.

Mr. Walter: Have you prepared a statement as to that tariff?

Mr. Church: Yes.

Mr. Walter: We offer it as Exhibit No. 3.

Examiner Burchmore: It may be received, subject to the objection made to the other statements.

(The statement so offered and identified was received in evidence and thereupon marked Exhibit No. 3, witness Church, received in evidence February 1, 1911, and is attached hereto.)

Mr. Walter: Does that exhibit show the differential as you get it from the tariff between the originating points outside of Texas and originating points in Texas destined to points named in that tariff?

7012 Mr. Church: There is a range from one and a quarter cents to ten cents, although the average range, I think, would be about one and one-quarter cents.

Mr. Walter: Over or under the Texas rate?

Mr. Church: Over the Texas rate.

Mr. Walter: Are there any joint rates from Kansas City Southern points to these points on the Santa Fe?

Mr. Church: None whatever.

Mr. Walter: You may examine the witness.

Examiner Burchmore: I will ask you to sum up your testimony, Mr. Church. That is, what the effect of it is, as you understand it.

Mr. Church: As I understand the effect of these rates, it restricts the shippers on other lines in producing territory and it also restricts the consumers in their purchase; their markets are very much restricted, and the Santa Fe local points have to buy from Santa Fe mills or from the mills located on the lines that are shown on those lists, which some of them are not very heavy producing lines, and where they are able to go off the Santa Fe, they do not always go on the same rate; they frequently have to pay a differential higher than the Santa Fe shipping points, so it does not as a rule
7013 produce a very satisfactory market for the consumer. It puts him at the mercy, in a way, of the dealers located on the Santa Fe. That is, the manufactures, I should say.

Examiner Burchmore: I had considerable doubt as to the admission of your testimony over the objection of counsel for the intervenors and for the Santa Fe, because it is so largely based on your opinion of what the tariffs show.

Mr. Church: Well, the tariffs speak for themselves.

Examiner Burchmore: And I did not wish to deny to the interests that Mr. Walter and Judge Garwood represent the full opportunity to present their case in that connection, but I must say now that I think you cannot rely very much on Mr. Church's testimony in your argument, but all should refer to your tariffs as to what the facts are.

Mr. Walter: He has filed statements.

Examiner Burchmore: I do not think the statements can be relied on fully, but reference should be made to the tariff.

Mr. Church: Reference is made to the tariffs, and I have endeavored to show the facts as I understand them to be, relying on the tariffs to show what they are.

Examiner Burchmore: I will ask counsel to limit their cross examination, with the thought that if there are any errors
7014 in the statements so made, an examination of the tariffs will develop those errors.

Mr. Cowan: But your Honor has asked him for an opinion on the traffic and the business. It necessarily is based upon what he knows, or is supposed to know about these tariffs. If he is in error on what he bases his opinion, the whole thing falls like a cob house. I want the stenographer to read Mr. Walter's question and the answer that Mr. Church gave, and I either want it stricken out or the opportunity for full cross examination to demonstrate whether he knows facts that would justify him in making the statement or not.

Mr. Walter: We request that he be given the right to cross examine.

(The question and answer referred to were then read as follows:)

"Mr. Walter: What would you say, Mr. Church, if you know, in a general way, is the comparison between the amount of tonnage that originates on the lines that are permitted to carry through rates with the Santa Fe, as compared to the tonnage which would be made available to consumers in Santa Fe territory if all the lines named in the tariff were permitted to carry through rates on a competitive basis?

7015 "Mr. Church: I think the percentage is perhaps eight to one.

"Mr. Walter: Which would be the eight and which the one?

"Mr. Church: By including these additional lines you would have at least eight more sources of supply than you have at present.

"Mr. Walter: Would it be eight times the tonnage probably available?

"Mr. Church: I think so, in a general way."

Examiner Burchmore: May I ask one question? That condition clearly obtained with reference to mills on the Cotton Belt, as I under-tand it, but the Commission in the Star Grain case opened up Santa Fe markets, if you can use that expression, to Cotton Belt mills by restoring the former basis of joint through rates. What was the result of that restoration in the matter of sales from mills on the Cotton Belt line in that respect?

Mr. Andrews: We object on the ground the witness has already shown that his knowledge does not entitle him to any opinion on the subject. He has no mill connection in the world, so far as his evidence discloses.

Examiner Burchmore: Have you any positive knowledge
7016 on that?

Mr. Church: No, I have not.

Examiner Burchmore: I will withdraw the question.

Cross-examination:

Mr. Cowan: You heard the question and answer read. I of course must assume you are a fair minded man. Do you still persist in making the answer to that question as a matter of evidence, or would you prefer that it be stricken out as an opinion that is too vague and uncertain to be the basis of evidence? If you insist, I want to cross examine, and if you do not, there would be no use in it.

Mr. Church: That percentage may not be correct, but from the general knowledge I have learned, I should say that it is very nearly correct.

Mr. Cowan: Well, percentage of what?

Mr. Charch: Shipments.

Mr. Cowan: To where?

Mr. Church: This territory involved.

Mr. Cowan: What territory are you talking about?

Mr. Church: Santa Fe local territory.

Mr. Cowan: And what do you mean by Santa Fe local territory?

7017 Mr. Church: What those words imply?

Mr. Cowan: In your meaning, yes.

Examiner Burchmore: You asked the percentage of what, and I ask how much is now moving to Santa Fe local points.

Mr. Church: I have not the figures.

Mr. Cowan: Have you any idea about how many million feet move to Santa Fe local points today?

Mr. Church: I have no figures.

Mr. Cowan: Have you any idea about how many million feet move to Santa Fe competing points?

Mr. Church: I have not any of those figures in feet or cars.

Examiner Burchmore: Do you know that any move?

Mr. Church: Yes.

Mr. Cowan: From where?

Mr. Church: I know from my own knowledge that shipments move to Santa Fe local territory.

Mr. Cowan: From where?

Mr. Church: Cravens, Louisiana.

Mr. Cowan: Where else, of your own knowledge?

Mr. Church: That is all of my own knowledge.

7018 Mr. Cowan: Now, you answered the Examiner that you did not know anything about what resulted when the Commission changed the rate system on the Cotton Belt?

Mr. Church: He asked me about information that I have no knowledge about. I have not any access to those figures.

Mr. Cowan: And you do not know what change that did produce; change in the rate basis? Well, you have already admitted that. Do you know how many carloads of freight are shipped to Santa Fe competing points off the Frisco lines?

Mr. Church: I have no access to those figures.

Mr. Cowan: Do you know how many are shipped from Rock Island points?

Mr. Church: I have no access to their figures.

Mr. Cowan: That would be the same as to each railroad?

Mr. Church: The only thing that I base my conclusion on is talk from people who do know.

Mr. Cowan: Who was that?

Mr. Church: Railroad people.

Mr. Cowan: Well, let them be called.

Mr. Church: That is up to you.

Mr. Cowan: You don't know yourself? Let us see what they told you. Who was it that told you it would increase it eight times?

7019 Mr. Walter: He never said they told him that.

Mr. Cowan: What did they tell you?

Mr. Church: I said that was my conclusion from conversation.

Mr. Cowan: It was not what they said, but you concluded it from what they said?

Mr. Church: They told me.

Mr. Cowan: Who was it?

Mr. Church: I have talked with various traffic people. I have

talked with Mr. Coleman, Mr. Hershey and Mr. Voorhees and Mr. Gorman, and a number of other railroad people.

Mr. Cowan: And they told you it would increase this movement?

Mr. Church: Well, in a general way, they gave me no figures, but that was the conclusion I reached by their conversation.

Mr. Cowan: You have the opinion it would restrict it, the fact that the rate from Cravens, say, to a Santa Fe point—or is that a Santa Fe point?

Mr. Church: Cravens is on the Santa Fe.

Mr. Cowan: I was asking you if you knew any place off the Santa Fe, which shipped to local points on the Santa Fe, or I thought I was.

Mr. Church: You asked me if I knew any point that shipped.

7020 Mr. Cowan: I meant the other thing. Of course Cravens would ship to a Santa Fe point, but I wanted to ask you if you know any place on any other line which does ship to local points on the Santa Fe.

Mr. Church: Hearsay only.

Mr. Cowan: Do you know of any point on the other lines that ship traffic to competing points on the Santa Fe?

Mr. Church: Yes.

Mr. Cowan: To competing points in Kansas?

Mr. Church: Yes.

Examiner Burchmore: May I interject a question? I want to ask this: have you any idea at all as to the extent of tonnage moving from mills on the other lines, Kansas City Southern, Iron Mountain, and so forth, in the Southwest, to Santa Fe local stations at the present time?

Mr. Church: At the present time I have no knowledge of those figures.

Examiner Burchmore: Do you know that anything moves?

Mr. Church: There may be some. I do not know how extensive. I do not think it is very heavy.

Examiner Burchmore: Your estimate is that tonnage would increase eight times if the rates were readjusted?

7021 Mr. Church: My conclusion is that that tonnage would have been about that ratio if the rates had been continued. It might not result that way if the rates were restored at the present time, because a good deal of the business is perhaps lost and operators are going in other territories for markets.

Examiner Burchmore: Have you any further facts you can state in support of your opinion?

Mr. Church: No, I have not.

Mr. Cowan: Were you through, your Honor?

Mr. Burchmore: It seems to me the witness has stated his opinion, and given a full statement of the basis on which it rests and disclaims any positive knowledge. I doubt whether it is worth while for us to examine further into that point.

Mr. Cowan: It is not that point I am going to examine into. It is another point, which I think your Honor will see the moment I ask the question. If you think it is not pertinent after I ask the

question, you can rule on it. It takes two questions to do this. You have stated it to be your opinion that if the Santa Fe local territory were opened up by giving the through routes and rates equal over the Santa Fe to what it would be, I suppose, to
7022 competing points on the Santa Fe from these originating points other than the Santa Fe, that it would increase the traffic about eight times, at least very materially increase the traffic to those local points, and I suppose you mean, would thereby afford to mills on these other lines commerce which they do not now enjoy; is that correct?

Mr. Church: That was my idea.

Mr. Cowan: Now, the reason they do not enjoy it is because the mills on the Santa Fe get a lower rate to those points; is that it?

Mr. Church: That is the idea.

Mr. Cowan: If, therefore, a mill situated on the other line gets a tap line allowance that goes to the practical owner of the property of three and one-half cents, wherein does the difference lie?

Mr. Church: There are a good many things, the character of the investment and the conditions are not equal. The man that has the lower Santa Fe rate, may not have any investment in a tap line.

Mr. Cowan: You would expect the rate to take care of that, would you, as a rate expert?

Mr. Church: The three and a half cents?

Mr. Cowan: Whether he had any investment in a tap line.

7023 Mr. Church: Well, I don't know as that results in a rate proposition.

Mr. Cowan: When a man goes out from the Long-Bell Lumber Company, for example, to sell a car of lumber, we will say at Crawford, Texas, you can find occasionally a place where there is no other railroad, but large enough to support one public school——

Mr. Garwood: I suggest the oratorical part of the interrogatories may be left out.

Mr. Cowan: I thought that would be the most pleasurable part. Suppose the Long-Bell Lumber Company goes out to Crawford, Texas, to sell a car of lumber, and Mr. Stephenson here goes out to sell a car of lumber to the man at Crawford. Mr. Stephenson gets no allowance whatever and pays the full Santa Fe rate to Crawford; Long-Bell would have to pay the differential above or could itself deliver the lumber with its own power, and let the Santa Fe take it, just like Mr. Stephenson does from his mill; now, how would the one be at an advantage over the other on account of the Santa Fe rate?

Mr. Church: I don't understand the Long-Bell people have any railroad or power of their own.

7024 Mr. Cowan: But I will assume that they do.

Mr. Church: I do not care to assume that they do, because I know they have not.

Mr. Cowan: You mean the Long-Bell interests do not own any railroad?

Mr. Church: I am speaking of the Long-Bell Lumber Company.

Mr. Cowan: I said interests.

Mr. Church: I have heard stated that the Long-Bell had no railroad interests.

Mr. Cowan: Well, assume that to be the case for the purpose of my question. Let me assume that to be the case, that they can deliver to the Santa Fe just on equal terms and get the same rate, or the Fullertons can do that same thing and get the same rate right on over to Crawford, wherein has one got an advantage over the other that you can see?

Mr. Church: Assume that to be the case; Mr. Stephenson perhaps has not the extent of investment that you say the Long-Bell Company have.

Mr. Cowan: Is that your answer?

Mr. Church: Yes, sir.

Mr. Walter: I think Judge Cowan misunderstood the witness' answer a moment ago as to that tonnage. He did not say
7025 the tonnage would move, but it would be available to the purchasers.

Mr. Cowan: I had it read over in order to see, and I asked him what would be the case, based on the talks he had with various traffic men.

Examiner Burchmore: I understood eight times the tonnage to be moved.

Mr. Walter: No; available for movement.

Mr. Church: I did not mean it would increase that much, because there would not be the market, but it would open up that much additional territory.

Mr. Walter: To the consumer?

Mr. Church: To the consumer; that is what I intended to convey.

Mr. Cowan: Why would it not move?

Mr. Church: There is not the demand for it. This territory takes so much lumber. You cannot increase it without some different condition.

Mr. Coleman: It is a paper proposition; is that it?

Mr. Church: The eight to one? I did not say so; no more than some of your rates are paper propositions.

Mr. Cowan: Let us see who you represent and what your
7026 interest is. Let us see what your opinion is based on.

Mr. Church: I think I explained that my opinion is based on talks with traffic people.

Mr. Cowan: You represent the Pickering interests, do you not?

Mr. Church: Yes, sir.

Mr. Cowan: And they own and operate a tap line. You testified about that.

Mr. Church: I have testified about the Louisiana Central.

Mr. Cowan: And they get a division?

Mr. Church: The Louisiana Central gets a division.

Mr. Cowan: Have you got any greater investment in proportion to the capacity of your mills than have other lumber interests?

Mr. Church: I do not know what the investments of the Pickering interests are in the mills.

Mr. Cowan: I mean investment in railroads.

Mr. Church: The Louisiana Central has a larger investment in their railroads than some others in that neighborhood.

Mr. Cowan: And some others have larger investments than you, dependent on the length of line?

Mr. Church: Yes, sir.

7027 Mr. Cowan: And amount of service performed.

Mr. Church: Yes, sir.

Mr. Cowan: Proportionate to the cost per ton of the output, are you able to say that your mill has a larger railroad investment than does Mr. Stephenson?

Mr. Walter: Now, let us have that cost per ton.

Mr. Cowan: If he wants to give it, he can.

Mr. Walter: We are going to object unless you first make your proffer of the cost, and give the basis of what the cost is, as compared one with the other, and then the witness can tell you.

(Question read.)

Mr. Cowan: Strike out the word cost. Proportionate to the volume of the output.

Mr. Walter: Now state the volume.

Mr. Cowan: That is absurd.

Mr. Garwood: I want to call attention at this time to the proposition that we have never been permitted to go into the cost of production at all. We made some slight endeavor to do it, but we were not permitted to, and we have of course acceded to that ruling. Now, if we start back into it, and the rulings are to be reversed, and I take it they are not, we will have to go back over all

7028 that and get our witnesses back here.

Examiner Burchmore: Will you ask your question again?

Mr. Cowan: Strike it out, and I will ask it again. Proportionate to the volume of the output, is the investment in railroad appliances of the Pickering Company greater than the investment of your competitors in that part of the country?

Mr. Church: It is greater than some. I do not know the extent of others.

Mr. Cowan: And probably less than others?

Mr. Church: It is probably less than some and greater than some.

Mr. Cowan: You can haul your traffic and deliver it to the Santa Fe without any difficulty?

Mr. Church: The Louisiana Central can, yes, sir.

Mr. Cowan: Well, that is you, is it not? Practically? Does not the lumber company own it?

Mr. Church: No, the lumber company does not own it?

Examiner Burchmore: That has been fully testified to.

Mr. Cowan: Suppose we take an interest which does get the four cent division of the rate, and the same people that own the lumber company own the railroad which gets it, and they

7029 are going out to Crawford and compete for this supposed sale of lumber, won't they have just as much advantage as if they delivered it to the Santa Fe and took the straight rate?

Mr. Church: Well, the Santa Fe does not join with any other lines to Crawford; it is a local point. They apply that rate from

their main line. The expense of getting that car to the main line may be different between the two situations.

Mr. Cowan: Exactly, and the people on the Santa Fe main line have to get the lumber to the main line, do they not, from the stump into the mill, they have to get it to the Santa Fe line?

Mr. Church: The Santa Fe main line does not participate with through rates with anybody.

Mr. Cowan: If their cost is equal in getting the lumber from the mill to the main line, wherein lies the advantage that they have?

Mr. Church: I do not understand the cost of getting it to them is the same in each instance.

Examiner Burchmore: We will have to turn to some other fact.

Mr. Cowan: You said there were not rates in by any other line via the Santa Fe to New Mexico.

7030 Mr. Church: I think there are none. The tariff is the best evidence.

Examiner Burchmore: Is it your understanding there are, Judge Cowan?

Mr. Cowan: We had the Roswell case up before the Commission and after the decision my clients told me the Santa Fe finally put in through rates from certain points, but I think they make a differential from certain points, but the rates are in. Now, will you name some important local point on the Santa Fe that consumes lumber?

Mr. Church: Woodward, Oklahoma.

Mr. Cowan: What is the line that runs out from there, building in this direction?

Mr. Church: This is a local Santa Fe point in Northwest Oklahoma.

Mr. Cowan: Name some in Texas.

Mr. Walter: You have got one there. What do you want to know about it?

Mr. Cowan: He says it is an important place, and has named it.

Mr. Church: I have been told it is about four or five thousand people.

7031 Mr. Andrews: How many cars of lumber a month does it consume?

Mr. Church: I have no figures. Mr. Coleman can tell you.

Mr. Coleman: Have you ever been there?

Mr. Church: I never have.

Mr. Cowan: I have tried too many law suits, and you have——

Mr. Church: There has been a good deal of increase in the population and immigration in that country. I am told that is the population.

Mr. Cowan: What other place is there on the Pan Handle lines of the Santa Fe in western Oklahoma?

Mr. Church: I don't know as to that country very well.

Mr. Walter: We will give you one, if you want it. Alva.

Mr. Cowan: You say that is only on the Santa Fe? You had better get your geography.

Mr. Walter: It is a junction point now; yes.

Mr. Cowan: Let us see if he can name some more.

Examiner Burchmore: We can refer to the tariffs for a list of the stations.

Mr. Cowan: But the witness has given an opinion which is undoubtedly based on want of knowledge——

Mr. Garwood: I think that is a gratuitous and uncalled-
7032 for and incorrect statement.

Mr. Cowan: I do not mean to reflect on the witness——

Mr. Garwood: I do not think you do, but it is just your general exuberance of spirit.

Mr. Cowan: I have not had any this morning.

Mr. Garwood: But I do not think counsel ought to fill the record with these unintended reflections on the witness. The witness is here and has shown his connections, and I think it is altogether improper for counsel to make such a statement.

Mr. Cowan: If it is improper, I withdraw my remark, but I do not want to withdraw the question.

Mr. Walter: Try Quinlan.

Mr. Cowan: Yes, let us see if he knows. Do you know how large a place it is?

Mr. Church: No, I do not.

Mr. Cowan: Go down into Texas on the Pan Handle lines——

Examiner Burchmore: Let me ask what your line of questions is going to be. Are you trying to get a list of towns——

Mr. Cowan: No, I am trying to find if the witness, who comes here and expresses an important opinion, has ever considered the real facts.

Mr. Garwood: It does not require proof to show there are
7033 thousands of local stations on a system as extensive as the Santa Fe, and for the benefit of counsel we can introduce a map of the Santa Fe, and all of its connections, which will show the points which are local and those which are not local.

Mr. Walter: And when the new census figures are announced, we will give him the population of all the towns.

Mr. Coleman: Why cannot counsel agree, in order to stop this to strike out the testimony of the witness, and let us get down to something substantial.

Mr. Walter: Not at all.

Mr. Coleman: Then we want to cross examine.

Examiner Burchmore: I think the cross examination has gone far enough.

Mr. Cowan: I think so too.

Mr. Coleman: I would like to ask if your 233 lumber producing roads, and 200 lumber producing roads do not include the tap lines?

Mr. Church: The tariff shows for itself.

Mr. Coleman: I know; we wanted that tariff to show for itself, but you have gone on to explain it. Tell me that.

Mr. Church: Some are short lines; yes, sir.

Mr. Coleman: How many?

7034 Mr. Church: That statement shows that twenty are taken as larger producing lines. The balance are not all short lines, because destination lines are shown, as well as originating line.

Mr. Coleman: If you do not know, say so, but——

Mr. Church: I have told you, I think, what the tariff shows.

Mr. Coleman: I want to know if you included all the tap lines, and if so, how many there are.

Mr. Church: I did not count the tap lines, as you call them, but the tariff speaks for itself, and shows trunk lines as well as short lines.

Mr. Coleman: Does the tariff distinguish them at all?

Mr. Church: No.

Mr. Coleman: I am asking you if you cannot distinguish them and tell me how many tap lines you included which get allowances.

Mr. Church: I do not know all the tap lines which get allowances. I have not access to their records.

Mr. Coleman: Well, in the question if it is your opinion there is a difference of say three and one-half cents in favor of a point open to one market and open to one producer and not to another;

7035 that is a discrimination against the one that cannot get in.

Mr. Church: Yes.

Mr. Coleman: That is our opinion too. That is all.

Mr. Walter: That seems to be settled.

(Witness excused.)

Mr. Coleman: This statement on Exhibit 1 should be stricken out: "The lumber tonnage produced by the lines permitted to carry through rates to Santa Fe points is a drop in the bucket, compared with the tonnage that would be made available to consumers in Santa Fe territory if all the lines participating in the tariff were permitted to carry through rates on a competition basis." Will you agree to strike that out as not surely reflected in the tariff from which the witness is said to have gained his knowledge?

Mr. Garwood: I think perhaps the expression "drop in the bucket" might come out.

Mr. Coleman: No, the whole paragraph.

Examiner Burchmore: That surely is not a description of anything in the tariff.

Mr. Walter: Let it go out.

7036 M. B. NELSON was called as a witness, and having been duly sworn, testified as follows:

Mr. Garwood: Where do you reside?

Mr. Nelson: Kansas City, Missouri.

Mr. Garwood: Have you any connection with the Long-Bell Lumber Company?

Mr. Nelson: Yes, sir, I am a director and general sales manager.

Mr. Garwood: How long have you held that position there?

Mr. Nelson: I have held the position of sales manager for some thirteen years, and a position as director for some seven years.

Mr. Garwood: Are you a stockholder in the Long-Bell Company?

Mr. Nelson: Yes, sir.

Mr. Garwood: Is that stockholding a substantial business interest?

Mr. Nelson: Yes, sir.

Mr. Garwood: In other words, it goes beyond any mere qualifying interest?

Mr. Nelson: Yes, sir.

Mr. Garwood: It is a substantial business interest?

7037 Mr. Nelson: Yes, sir.

Mr. Garwood: Do you own any stock in any way in either of the three railways in which other stockholders in the Long-Bell Company own stock interests?

Mr. Nelson: No, sir.

Mr. Garwood: None whatever?

Mr. Nelson: No, sir.

Mr. Garwood: I will ask you, Mr. Nelson, whether in making sales of lumber for the Long-Bell Company, your sales departments take into account in any way whatsoever any division of the rates that either of the roads in which other stockholders of the Long-Bell Lumber Company have any interest?

Mr. Nelson: None whatever.

Mr. Garwood: Is there any connection between the sales departments of your company and the railway departments in any sense?

Mr. Nelson: No more than any other line of railroad over which we ship.

Mr. Garwood: Do your salesmen know of the divisional arrangements which these roads that I have mentioned have with other railroads?

Mr. Nelson: Not with my knowledge.

7038 Mr. Garwood: And those arrangements are not taken into account in any manner whatsoever in the selling of lumber?

Mr. Nelson: No, sir.

Mr. Garwood: From your observation and experience in the selling of lumber, does that condition obtain generally with regard to other lumber interests, the stockholders in which are supposed to have stockholding interests in railroads?

Mr. Nelson: They do not so far as I have been able to learn.

Mr. Garwood: So far as you know that applies to all?

Mr. Nelson: Yes, sir.

Mr. Garwood: Have you any yards at local points in Kansas territory?

Mr. Nelson: Yes, sir.

Mr. Garwood: On the Santa Fe, I mean.

Mr. Nelson: Yes.

Mr. Garwood: Can you state what effect, if any, the cancellation of rates by the Santa Fe with its connections has on the lumber markets at local points in its territory, Santa Fe territory, in Kansas, for instance?

Mr. Nelson: It restricts the territory in which the yards located

at local points on the Santa Fe are able to purchase their
7039 lumber. The restriction with our yards in the State of Kansas is not quite so great as it is in the states of Oklahoma and New Mexico.

Mr. Garwood: I will ask you whether those rate arrangements, in addition to restricting the territory from which the local dealers can purchase, conversely does not also of course restrict the market in which the producing territories can sell?

Mr. Nelson: Yes, sir.

Mr. Garwood: I will ask you if it follows from both of those propositions that mills situated directly on the Santa Fe are given an advantage in all those local markets?

Mr. Nelson: It does give them an advantage.

Mr. Garwood: Does it tend to restrict the market of those situated on such local points to mills situated on the Santa Fe directly?

Mr. Nelson: It forces the dealers located at local points on the Santa Fe to buy largely of the mills that are located on the Santa Fe proper.

Mr. Garwood: You have mentioned Santa Fe territory in Kansas and Oklahoma. Does those same general conditions apply in New Mexico?

7040 Mr. Nelson: More so in New Mexico than either Kansas or Oklahoma.

Mr. Garwood: Can you give any illustrations?

and Oklahoma. Oo those same general conditions apply in New Mexico have, I believe the tariff will show, a five cent lower rate than from mills located on any other line of road.

Mr. Garwood: What effect does that have on first the dealer at such local point and also as to the producer not situated on the Santa Fe?

Mr. Nelson: Well, the lumber is consumed in almost all territory largely by farmers and settlers surrounding the stations and the dealer that is located at a local point on the Santa Fe is limited in his source of supply to the mills that can reach there on the Santa Fe rate. The dealer that is located on some other line of road has a much larger territory from which to buy his lumber. Consequently it gives the dealer located on some other line of railroad than the Santa Fe that advantage over the dealer located on the Santa Fe, and in making investments, our company has avoided, so far as possible, locating new yards on the Santa Fe for that reason, figuring that we would have an advantage by locating the yards on some other
7041 line, where we had a wider territory in which to purchase our lumber.

Examiner Burchmore: I shall have to ask what bearing this has on the issues in this case.

Mr. Garwood: I think it is quite apparent. It is in evidence here that a contract has been entered into by the principal intervenor with the Santa Fe road, in which the Santa Fe agreed to cancel out all joint rates. Now, we are showing that——

Examiner Burchmore: Do you think the record is full on that point?

Mr. Garwood: Yes; now, we are showing that there has been a continuous operation in consonance with the terms of that contract. I think we have gone far enough to illustrate it, and I was just closing when your Honor interposed the question.

Mr. Coleman: Mr. Kirby's testimony distinctly showed, and it is the only testimony in the case, that absolutely no action had ever been taken toward cancelling out the joint rates.

Mr. Walter: We are showing that it has been done.

Examiner Burchmore: I think we will not discuss the point any further. We can read the testimony in the case to see what
7042 it does show, and as to the rates, we can look to the tariffs to see what they are.

Mr. Garwood: Your yards do not always buy their lumber from the Long-Bell mills, do they?

Mr. Nelson: No, sir; they do not.

Mr. Garwood: In other words, they are conducted as any other independent yard, and buy where it is to their best advantage to buy their supplies?

Mr. Nelson: Yes, sir; the investment is treated on our books entirely separate, and treated as a separate corporation.

Mr. Garwood: You mentioned New Mexico. Have you a yard in New Mexico?

Mr. Nelson: We have one at Clovis, and perhaps we have others; I am not in charge of that department.

Mr. Garwood: Where do you buy your supplies for the Clovis, New Mexico, yard?

Mr. Nelson: We buy it wherever we think we can buy it to the best advantage.

Mr. Garwood: Do you purchase any there from mills situated on the Santa Fe?

Mr. Nelson: Yes, sir.

7043 Mr. Garwood: In large amounts?

Mr. Nelson: Whatever the requirements are.

Mr. Garwood: Whatever the requirements are?

Mr. Nelson: It might be considered large or small.

Mr. Garwood: What effect on your purchases at that mill does the cancellation of rates by the Santa Fe have?

Mr. Nelson: It forces us to pay a higher price for our lumber at that point on the rate of freight to Clovis than we would be forced to pay if that territory—if other shipping territory was opened up to us.

Mr. Garwood: That is all.

Cross-examination:

Mr. Cowan: Most of your supply at the Clovis yard you get from your own mills in Louisiana, do you not?

Mr. Nelson: No, sir.

Mr. Cowan: Where do you get most of it?

Mr. Nelson: I am not prepared—I have not any statement here which would show where we get the most of it. I do not handle the purchases personally. If it was thought necessary I could furnish

the Commission with a statement for the last five months showing where we have purchased it.

7044 Mr. Coleman: Do you handle the products of the De Ridder mill?

Mr. Nelson: I sell it, that is through the Sales Department of the Long-Bell Lumber Company.

Mr. Coleman: Let me ask you if you could not get into Clovis by way of the Santa Fe on the lower rates from De Ridder.

Mr. Nelson: We could by paying the L. & P. local rate of five cents.

Mr. Coleman: Is the L. & P. dominated by the Long-Bell interests?

Mr. Nelson: The L. & P. is owned by some of the stockholders that are stockholders in the Long-Bell Lumber Company.

Mr. Coleman: How far are they from the Santa Fe rails at De Ridder?

Mr. Nelson: I have no accurate measurements in my mind. Only a short distance.

Mr. Coleman: You have in Kansas, I believe, about forty yards at local Santa Fe points, have you not?

Mr. Nelson: No.

Mr. Coleman: How many?

Mr. Nelson: I could get you those figures.

7045 Mr. Coleman: You could give me a guess right now, could you not?

Mr. Nelson: Local Santa Fe points?

Mr. Coleman: Yes.

Mr. Nelson: I think we have only four or five at local points in Kansas.

Mr. Coleman: How many have you altogether?

Mr. Nelson: Retail yards?

Mr. Coleman: Yes.

Mr. Nelson: About 85, I think. I have not any list of them.

Mr. Cowan: You say that no consideration is given in selling lumber to the fact that the railway which I will call a tap line, in order to designate it, which is owned by the same individuals that own the lumber company or saw mill gets a division of the rate; that that does not bind its reflex in the selling price of the lumber.

Mr. Nelson: The division of the rate from the mill to destination has no bearing whatever upon the sale of our lumber.

Mr. Cowan: Nor on the price at which you sell it?

Mr. Nelson: Nor on the price at which we sell it It is immaterial with us what roads get the long or short haul, or the division

7046 of the through rate.

Mr. Cowan: And I understood you to apply that generally to other companies who sell lumber also.

Mr. Nelson: I do not know what they base theirs on. I only know what we base ours on. I understand, that is from hearsay——

Mr. Cowan: I am just seeing if I understood your evidence, in order that I might ask you a question. As I understood it, you testified that you make no difference in the price at which you sell

the lumber to the dealers on account of the fact that the Louisiana & Pacific Railroad is owned by some of the stockholders in your Long-Bell Lumber Company, and that that railroad gets a division of the rates. I think I have stated it correctly, have I not? That is what you said?

Mr. Nelson: I stated that it was immaterial.

Mr. Cowan: And that you made no difference in the price on account of that fact.

Mr. Nelson: No, we make no difference on account of the divisions we get, because we are not interested in it.

Mr. Cowan: That is what I understood you to say, and then I understood Mr. Garwood, or if my memory serves me, Mr. Garwood then asked you whether other lumber companies which have
7047 these short railroads serving them, make any difference in their selling price to the dealer on account of the fact that they do or do not get a division, and you answered that in this way, that you had never observed it if they did.

Mr. Nelson: I have no means of knowing. You are correct in that, that I have no means of knowing whether they did or not.

Mr. Cowan: I think you answered so far as you had observed, they did not.

Mr. Nelson: Yes, sir, so far as I observed.

Mr. Cowan: Then if it is immaterial as you have stated, and the practice is general to not make a difference, as you have stated it to be in the case of the Long-Bell Company and the Louisiana & Pacific division, what effect would it have, and what difference would it make if the Kirby Lumber Company should incorporate their railroad, and apportion out the stock of that incorporated railroad to the stockholders in the Kirby Lumber Company, or some of them, and upon that incorporation being perfected, should get a division of seven cents per hundred pounds from their mills to Galveston? Now, who would get the trade at Galveston, in your opinion?

Mr. Nelson: The chances are the man that gave the best
7048 service and had the lowest price for delivery at Galveston, would get the business.

Mr. Cowan: Would it be a disadvantage to your business if such a thing as I have stated should happen?

Mr. Nelson: Not if the Kirby Lumber Company had no interest in the railroad.

Mr. Cowan: I assumed in my question a case similar to the Long-Bell situation, that the stock in the incorporated road should be apportioned out to a portion of the stockholders in the Kirby Lumber Company, say to a majority interest. Now do you say that would not make any difference in your trade in Galveston if such a thing should happen?

Mr. Nelson: I do, so long as the same through rate applied from both mills.

Mr. Nelson: That is to say it would not affect the price of lumber nor enable the Kirby Lumber Company to undersell you, because of the fact that that seven cent division was given.

Mr. Nelson: Oh, I don't know what effect it would have on the price.

Mr. Cowan: Suppose that the through rate is charged from a Santa Fe station to New Mexico, and that Mr. Kirby, being an owner of 51 per cent of stock in the Kirby Lumber Company,
7049 should be given a rebate by the Santa Fe of all the rate to New Mexico, do you think that would make any difference in the price of the lumber delivered in New Mexico that he would sell compared to what you would sell, who did not get the rebate?

Mr. Nelson: That would depend entirely upon the fact whether Mr. Kirby took advantage of that and charged—took the rebate as a profit, or whether he took advantage of that and used his rebate to lower the price.

Mr. Cowan: Can you conceive of a case in which human nature has gone to the point that he would not take advantage of it?

Mr. Nelson: I do not know that my conception would be worth anything for the record.

Mr. Cowan: Now, Mr. Andrews suggests the question if it makes no difference to your company, the Long-Bell Lumber Company who gets the long haul or the short haul, or what division they get, why do you ship all your traffic practically over the Louisiana & Pacific Railroad?

Mr. Nelson: We start it over that road because of arrangements or contracts with the Louisiana Pacific, that is all.

Mr. Coleman: Referring to your De Ridder mill, you said that the only way you could get into our local Kansas points would be by paying this five or six cent local rate——

7050 Mr. Nelson: Five cent local rate.

Mr. Coleman: That is from your own mill up to our junction point, a very short distance.

Mr. Nelson: Yes.

Mr. Coleman: Now that could be performed as a switching charge, I suppose, at a very small expense?

Mr. Nelson: I am not a railroad man, I do not know what the switching charge—I cannot distinguish a switching charge from a charge of any other nature performed by the railroad company.

Mr. Coleman: You ship some stuff of course from your De Ridder mill. Over what road, in the main, does that move?

Mr. Nelson: I think it moves over the Louisiana & Pacific altogether.

Mr. Coleman: Now, then, what is the next connection with the Louisiana & Pacific?

Mr. Nelson: It depends on the destination.

Mr. Coleman: Will you name any road and any distance.

Mr. Nelson: The Frisco system, Southern Pacific, Iron Mountain, Kansas City Southern——

Mr. Coleman: Take the Frisco, how far is that from your
7051 mill?

Mr. Nelson: At De Ridder?

Mr. Coleman: Yes.

Mr. Nelson: I think 25 or 27 miles. I am not familiar with the exact distance.

Mr. Coleman: The Iron Mountain is how far?

Mr. Nelson: It is about forty-five miles.

Mr. Coleman: And you have to pay a rate on the Louisiana & Pacific on that business, do you not?

Mr. Nelson: If it is going to the junction point with the Iron Mountain, we pay the local rate between——

Mr. Coleman: What would that be?

Mr. Nelson: The local rate to Lake Charles where the delivery would be made, is five cents.

Mr. Coleman: If it was going on a joint through rate, what part of that would the Louisiana & Pacific get?

Mr. Nelson: I don't know.

Mr. Coleman: Do you mean to tell us that you as sales agent absolutely do not know the divisions you get with that railroad?

Mr. Nelson: I do.

Mr. Garwood: Mr. Nelson, if you have no personal objection, I would be obliged if you would state to the Commis-
7052 sioner what is the extent of your stock owning interest in the Long Bell Lumber Company.

Mr. Nelson: Would you want par value, or book value?

Mr. Garwood: Well, the par value.

Mr. Nelson: Inventory value?

Mr. Garwood: Yes.

Mr. Nelson: Or par value?

Mr. Garwood: Give your book value of it.

Mr. Nelson: About $270,000.

Mr. Andrews: I did not understand what value you were asking him about.

Mr. Garwood: I asked him the value, and he asked me whether it was par value or book value.

Mr. Andrews: But I did not know what the subject matter was.

Mr. Garwood: His stockholdings in the Long-Bell Company.

Mr. Andrews: His personal holdings?

Mr. Garwood: Yes. I will ask you if you own any interest in the stock of any railway in which other stockholders of the Long-Bell Company own stock.

Mr. Nelson: None whatever.

Mr. Garwood: None at all?

Mr. Nelson: No.

7053 Mr. Garwood: You therefore have no financial interest in any way in either of the railroads that have been testified to in this record?

Mr. Nelson: None whatever.

Mr. Garwood: Now you compete with the lumber interests such as the Pickering, the Central Coal & Coke Company, the Kirby Lumber Company, and others, do you?

Mr. Nelson: Yes.

Mr. Garwood: And your answer to the question as to whether the divisions in rates have any bearing on your sale is drawn from your

contract and competition with all of these varied interests in the market.

Mr. Nelson: I do not believe I caught that.

(Question read).

Mr. Nelson: I don't believe I understand.

Mr. Garwood: From your general observation of the trade, in other words, is what I am getting at. Your statements that so far as you have observed and know with others, independent of your own individual business, the divisions that are allowed these so called tap lines, have no effect on the sales of lumber; your opinion on that is drawn from your observation of the general trade as you
7054 have been thrown in contact with it?

Mr. Nelson: Yes, sir.

Mr. Garwood: Now do you have any transportation over any line of railroad?

Mr. Nelson: No.

Mr. Garwood: Free transportation, I mean.

Mr. Nelson: No, I have none whatever, that is all.

Mr. Cowan: Was the list of stockholders in the lumber company and the railroad company filed as requested at New Orleans?

Mr. Farrar: Yes, sir, all of them.

Mr. Cowan: In what particular part of the business is your stock ownership?

Mr. Nelson: Long-Bell Lumber Company. I have interests in other companies in which the Long-Bell Company are interested, and some in which they are not.

Mr. Cowan: When you said $270,000, that is the aggregate?

Mr. Nelson: On the investment in the Long-Bell Lumber Company, and not what is called the allied companies.

Mr. Cowan: Does the Long-Bell Lumber Company, as itself, as a corporation, operate the retail business?

Mr. Nelson: Yes, sir.

7055 Mr. Cowan: Or is it done under a separate corporation?

Mr. Nelson: No, it is done under the name of the Long-Bell Lumber Company proper, the only distinction being that a separate amount is set out for them to operate under.

Mr. Cowan: I guess the records taken at New Orleans will show the relations of those various companies. I do not want to go into that.

Mr. Andrews: Has a list of stockholders been filed?

Mr. Garwood: They have all been filed. I think it is very fully in the record.

Mr. Cowan: Does the Long-Bell Lumber Company handle the entire output of all these mills of subsidiary companies?

Mr. Nelson: Yes, sir, it does.

Mr. Cowan: Have you a statement showing the amount of lumber that you do ship to Santa Fe local stations?

Mr. Nelson: I haven't it here, but it could be furnished, if it is desired.

Mr. Cowan: I would like you to furnish that, I think, in view of the statement.

Mr. Andrews: Furnish a statement showing the amount of lumber shipped to Santa Fe local points, and the places from which you get it.

7056 Mr. Nelson: Well, you mean you want a statement of our retail yards for how long a period, that they bought their lumber?

Mr. Andrews: No, take a limited period, say the latest three months you can figure.

Mr. Nelson: Take some three months?

Mr. Andrews: September, October and November of last year; that would be the most recent business.

Mr. Nelson: You want where we purchased the stock?

Mr. Andrews: The point from which the yard was supplied, and the quantity used.

Mr. Nelson: I am not sure we can furnish a statement showing from what points the lumber was shipped, because some of this lumber is purchased from wholesalers who have bought the lumber from somebody else, and our records would not show the shipping points.

Mr. Andrews: The bill of sale would show the point of origin?

Mr. Nelson: I do not think we have in all cases the bills of sale on all shipments. The expense bill is returned to the shipper.

Examiner Burchmore: I wonder if you have in mind the

7057 same thought Judge Andrews has? As I understood Judge Andrews, he wanted to know how much the Long-Bell mill shipped into the local Long-Bell yards on the Santa Fe.

Mr. Andrews: No, I wanted to know the yard consumption, so to speak, determining that by the amount shipped into these local yards on the Santa Fe, and then I wanted the comparison as to where they were supplied from on the statement the witness has made that they did not supply all that lumber from their own mills. And I wanted the details for whatever they might be worth, and whatever they might show.

Mr. Cowan: Can the statement be furnished?

Mr. Garwood: Can you furnish that statement?

Mr. Nelson: I can furnish the statement as nearly correct as we can obtain from our records. As I state, in some cases we may not have the bills of lading to show just where the shipments originated.

Mr. Walter: The Santa Fe could give that information better perhaps.

Mr. Nelson: I think the Santa Fe could get from their own records a more correct statement.

Mr. Coleman: Why do you think that?

Mr. Nelson: You have a copy of the expense bills on record

7058 at your stations.

Mr. J. J. Coleman: You would first have to tell us where those yards are located.

Mr. Nelson: I could give you a list of our yards.

Mr. Andrews: Perhaps you can furnish the information without any trouble, if the inquiry be limited to lumber that originated from Santa Fe points. You would have that information, would you not?

Mr. Nelson: No, I do not know as we would. I do not think so any more than if it originated anywhere else. I am only assuming——

Mr. Andrews: Do the best you can.

Mr. Nelson: Yes.

Mr. Cowan: You do ship a substantial amount of lumber to Santa Fe local points?

Mr. Nelson: Yes, sir, we do. Our mill at Lufkin, Texas, is located on the Cotton Belt, and whatever material we can furnish to the local points in Kansas on the Santa Fe we furnish from that mill, because the rate from Lufkin to Kansas points is the same on the Cotton Belt that it is from local Santa Fe points, by order of the Commission.

Mr. Davis: How far is your mill at Lufkin—it is at Furber, within the corporate limits of Lufkin?

7059 Mr. Nelson: I do not know that it is within the corporate limits, but it is right in the town.

Mr. Davis: How far is the mill from the connection of the Houston, East & West Texas at Lufkin?

Mr. Nelson: Perhaps half a mile.

Mr. Davis: What rate is assessed on the Cotton Belt the business you desire to ship from Furber to Lufkin, when going to a point on the Houston, East & West Texas, where no through rate is applied?

Mr. Nelson: The Texas Commission rate of five cents, I believe.

Mr. Cowan: Are there other retail yards owned under other names than the Long-Bell Lumber Company that are under the general control of ownership of the Long-Bell Company?

Mr. Nelson: Yes, sir.

Mr. Cowan: And what companies are those?

Mr. Nelson: The Alfalfa Lumber Company.

Mr. Cowan: How many yards?

Mr. Nelson: I think there are 12 or 13.

Mr. Cowan: And what other company?

Mr. Nelson: So far as I know, the Long-Bell Lumber Company does not own or operate any yards under any other name. The stockholders of the Long-Bell Lumber Company own prac-

7060 tically all of the stock in the Minnetonka Lumber Company, but the Minnetonka Lumber Company has no connection whatever with the Long-Bell Lumber Company.

Mr. Cowan: Taking the yards that belong either to the Long-Bell Lumber Company, or some of the individuals associated in that company with one another in business, what is the total number of yards?

Mr. Nelson: I have not the correct number. I do not keep it in mind. If you want a statement to that effect, I could furnish it to you or to the Commission.

Mr. Cowan: Well, furnish it to the Commission. Mr. Farwell suggested a question, that he was under the impression there was somewhere around 200 yards belonging to various persons and corporations belonging to the Long-Bell Lumber Company.

Mr. Nelson: No, he is mistaken.

Mr. Cowan: Or in which Mr. Long had a substantial interest.

Mr. Nelson: Nothing like that number.

Mr. Cowan: This number which you gave a while ago in answer to Mr. Colenian applied only to the Long-Bell Lumber Company's yards proper.

Mr. Nelson: Yes, sir.

7061 Mr. Cowan: You would not want to make an estimate now until you furnished the list?

Mr. Nelson: No.

Mr. Farrar: We would say 86.

Mr. Andrews: The answer was 85 a while ago.

Mr. Farrar: I was under the impression it was 85, but a gentleman here says it is 86.

Mr. Nelson: I do not attempt to carry the number. They are buying and selling yards all the time, and that department is under Mr. Forsman.

Mr. Coleman: Could some one give the number of local yards, to save the trouble of making the statement?

Mr. Cowan: Just let the list be filed showing the yards and where each one is located.

Mr. Nelson: There are nine yards of the Alfalfa Lumber Company at the present time, and 19 owned by the Minnetonka Lumber Company.

Examiner Burchmore: Of what description, do you mean that are local to the Santa Fe?

Mr. Nelson: No, of all yards; I do not know the number. There are 68 Long-Bell proper.

Mr. Coleman: I believe Mr. Davis testified at New Orleans there was something like 30 at local points. I just wanted to know

7062 if you had sold any.

Mr. Nelson: I think the best way to get it is to file a statement showing where the yards are located.

(Witness excused.)

Mr. Garwood: Your Honor, we have testimony further to offer from the Sales Departments of lumber companies——

Mr. Andrews: Will you please name them?

Mr. Garwood: The Central Coal & Coke Company, the Pickering Lumber Company, the Chicago Coal & Lumber Company, the Missouri Lumber & Land Exchange Company, the Frost-Johnson Lumber Company, stockholders in which are also interested as stockholders in the various short lines as heretofore indicated in the record, whose testimony will be in general terms the same as that of Mr. Nelson, to the effect that the fact of divisions allowed short lines owned by stockholding interests in these several lumber companies have no effect in the sales of lumber made by their Sales Departments, and are not taken into account in any way whatsoever in those sales, and in their opinions have no effect upon the price; it being the general purport of such testimony substantially

as stated by Mr. Nelson. Now I understand that your Honor
7063 thinks that it is not desirable to go further with that line of testimony at this time, and it will be assumed that these witnesses would have testified along that line.

Mr. Andrews: I think, Judge, to shorten the time of this meeting, that we will be perfectly willing to agree, so far as the intervenors are concerned, that you have tendered the traffic men by name of each of the institutions you mentioned.

Mr. Garwood: These are the salesmen.

Mr. Andrews: The salesmen, and that each has testified concerning his business as Mr. Nelson has testified concerning the Long-Bell Lumber Company's business, with such incidental modifications as might be necessary as to the change in the individual cases. We do not care to exclude it, and we are willing to admit that that has been done, if agreeable to the Commission.

Mr. Garwood: With this addition, that the opinion of each witness that in his judgment, and from his observation of his own business and of others, that the allowances made by way of divisions to the tap lines, have no effect upon the sale of the lumber, even as a price or otherwise.

Mr. Andrews: Now, Mr. Nelson said that, and I am agreeing that these men testified to their business exactly as Mr. Nelson did, so it includes the whole thing, as he testified, only with such
7064 incidental changes as they might have.

Mr. Garwood: That is satisfactory.

Examiner Burchmore: I think we have already gone far enough on the point, and I believe Judge Andrews' suggestion meets the situation satisfactorily.

Mr. Garwood: I understand then, subject to exception as to its materiality, it will be considered that the witnesses so testified.

Mr. Cowan: Yes.

Mr. Garwood: That is all we have then.

Examiner Burchmore: Are there any other witnesses you desire to offer?

Mr. Garwood: No; that relieves us of a great deal of work.

Mr. Cowan: There is one thing, I think, wants to be given very serious consideration by all of the attorneys here, and put in the record so that you can lay the matter before the Commission when you return to Washington, and that is pertaining to the briefing and argument of this case. I do not know what the others may think about it, but we think on our side that it will be physically and practically impossible to brief this case in time for an argu-
7065 ment on March 15th. We are the people who are anxious to have this case decided, but there is hardly any use to attempt to do what is practically impossible. We think there ought to be some extension of time considered by the Commission. We are not ourselves now trying to point out what it ought to be, and *that* extension as short as may be in order to give opportunity to get this record in shape for briefing, and to brief it. You must understand that there are a number of statements that we have called for to be filed, and we may assume that it will be some little time

before some of them are filed, and some little time before the transcript of the testimony is made by the stenographer and furnished to the parties, and I just wanted to make that suggestion to go into the record.

Now, as to the matter of the Commission requiring exchange of briefs, before the date of argument, it is our belief that the railroad companies, the trunk lines, if they propose to file any brief of argument, and to argue this case before the Commission, ought to be required to present their briefs first. While they are defendants, they are the parties being investigated under this new power of the Commission, and they stand in the attitude of a judge nisi
7066 with an order to show cause, and we think the Commission ought to require the trunk line to present such briefs as they propose to file, if any, in the case, so that we may have them in order to have the right to answer them. Now we think that inasmuch as the tap lines, at least a number of them, filed their petitions asking the Commission to exercise this power under the law of suspending tariffs wherein these divisions were cancelled, stand in the next attitude of plaintiffs, and that the burden of proof is naturally upon the other parties, than us in the case, we think their briefs ought to be submitted to us, if there are going to be briefs submitted and exchanged for the argument in time that each party might reply. I do not mean by that that we should not proceed to the making of our briefs with diligence when the opportunity arises, before the other parties shall have presented their briefs as to that matter, but that we have the right to reply by brief before the date of argument to the briefs of the other side. I am not arguing the matter, and do not intend to, but am simply stating our position about that in order that the record may show.

Examiner Burchmore: I was intending to announce be-
7067 fore the adjournment that I think the Commission has formally notified the parties of the assignment of March 15th and 16th as the dates for the oral argument in this case.

Mr. Walter: Yes, sir.

Examiner Burchmore: I think notice to that effect was incorporated in the notice of this hearing.

Mr. Walter: Yes, sir, it was.

Examiner Burchmore: I think it was further announced by the Commission that the briefs of the parties would be due on March first.

Mr. Cowan: Yes, sir, that was the notice.

Examiner Burchmore: It being contemplated that each individual line might file a printed brief of not more than ten pages. I do not recollect whether the main briefs that were to be received from counsel representing all the tap lines, and in which the general questions were to be discussed were to be due on the same date or not, or whether the Commission fixed March first as the date for the intervenors' briefs.

Mr. Walter: Each one of the individual lines.

Mr. Cowan: I thought it was for all briefs.

Mr. Walter: No.

Mr. Coleman: I have so understood it, and that the tap
7068 lines were limited to a certain number of pages, and not the individual lines.

Examiner Burchmore: I mean the short lines. I was under the impression that counsel for the trunk lines had not intended to brief or argue the case, but counsel are present. I do not know——

Mr. Garwood: I do not assume for our lines that they would either file a brief or make any argument in the case.

Mr. Coleman: Of course it is our intention to file a brief and make an argument. I know there has never been any doubt about that.

Examiner Burchmore: Mr. Jeffery, what have you to say?

Mr. Jeffery: All I can say at this time is that I have not made up my mind yet.

Mr. Walter: Counsel indicated in his remarks that the burden rested somewhat on the short lines, and I am not saying anything further than to say that they did not file any tariffs which are complained of in this hearing.

Mr. Cowan: I put it on the ground that they had filed petitions asking the Commission to invoke the jurisdiction of suspending the tariffs. I said some of them. It was on that ground in part that I made my statement.

7069 Mr. Walter: I do not consider that we have any burden at all.

Mr. Coleman: Could not the matter be taken up and have the Commission determine the order in which briefs shall be filed?

Mr. Cowan: That was the object of my statement.

Examiner Burchmore: I understand that was the statement Judge Cowan made.

Mr. Coleman: In what class did you put us, as to filing a brief?

Mr. Cowan: I put you in the trunk line class.

Mr. Coleman: And require us to file the first brief?

Mr. Cowan: If you have any tariff cancelled out, you fall in that category, and if not, you do not.

Examiner Burchmore: May I make this suggestion. Would it not be convenient for counsel representing each of the several interests, to write the Commission at an early date within the next day or two making their suggestions as to their own briefs, and the briefs of other parties? The time is a little short perhaps, and yet it is desired to get this case in as soon as possible. The order suspending this tariff expires April 15th, as I recall it, and the Commission will have to take some action on that part of the matter before that time and if you can all write to the Commission within the next
7070 day or two, the matter will receive immediate action.

Mr. Garwood: I wish to concur in that portion of Judge Garwood's statement that it is going to be almost a physical impossibility to brief these cases within the time limited. I recognize the desirability and importance of as speedy a disposition of the matter as is possible, but——

Examiner Burchmore: Perhaps counsel can get together and make some concrete suggestion to the Commission.

Mr. Garwood: I think perhaps we can, but I know that Judge Cowan has to some extent limited by the same causes which limit me. I have to go from here to another hearing which will take us two or three days, I think. I do not wish, however, to be considered as concurring in the proposition that an intervenor who comes into a litigation with an entirely new and different cause of action in which he appears as in the attitude of a plaintiff, or as a proponent of a new cause of action can say that after he gets in with his new cause, that the burden of proof is on every one else in the record except himself. To the contrary, my understanding of the rule is that the burden of proof is very distinctly and directly upon him. I merely mention that so that my acquiescence in his first
7071 proposition may not be construed to be an acquiescence in the second as well.

Mr. Coleman: I would like to say that we have no objection to filing the first brief, if that is any advantage to anyone. We are as ready now as at any time, and if any matter arises we will claim the privilege of answering it in oral argument or by reply briefs.

Examiner Burchmore: Mr. Wood:

Mr. Wood: I would merely like to suggest that it occurs to me that whatever rule is fixed for the filing of these briefs that the time for the filing of the briefs by the intervenors should be sufficiently in advance of the oral argument at Washington, that the trunk lines may be advised of the position taken by the intervenors in their briefs. So far as I can see, there is no reason why the trunk lines should file any briefs in this case or participate in the argument, at least not at the present time. But I think that in view of certain suggestions that have been made by counsel for the intervenors from time to time and various vague and indefinite allegations in the petition of the intervenors, that we are entitled to have those briefs served upon us sufficiently in advance of the argument so
7072 that we may be advised of the intervenors' position.

Mr. Coleman: I would also like to suggest that since the time is necessarily short, that there be a kind of a gentleman's agreement if anyone should be three or four days late on his brief, no one will enforce the rule.

Examiner Burchmore: I do not know if the Commission would recognize a gentleman's agreement in regard to briefs. We are rather strict in that requirement.

Mr. Coleman: We have an immense record and some statements are to be made——

Examiner Burchmore: I think I will renew my suggestion that counsel get together, or each counsel advise the Commission in a letter as to their position.

Mr. Andrews: I rise to speak to that point. It will be impossible to have a consultation with counsel except those of us who are here. It is apparent it is impossible for us to agree what we are going to do about it, because each one seems to expect the other to do something in advance, and it seems to me the only solution of the proposition is for the Commission to set the order upon consideration of the question, and the time in consideration of the state of the

record. I apprehend, without knowing, that this record
7073 would not be accessible to counsel before the 15th of this month, and I also apprehend that counsel will not want to begin briefing until they can have the entire record, and probably those that want to make full briefs upon the subject will have to go to Washington to get the record in the Star Grain case, and to see the exhibits.

Mr. Garwood: That is the only way to do it.

Mr. Andrews: That will of course materially interfere with our making any agreement among ourselves as to what those movements should be, and I think therefore that will expedite the cause by agreeing here that we disagree about the proposition, and ask the Commission to take into consideration the entire situation and make such ruling about it as appears to be right.

Examiner Burchmore: Very well, the matter of dates for the briefs and the oral argument will be brought to the attention of the Commission. If there is nothing further, the case will stand adjourned without date.

Whereupon, at 12 o'clock M., the hearing in the above-entitled matter was adjourned without date.

Vol. V.

TESTIMONY AND EXHIBITS.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1913.

No. 329.

UNITED STATES AND INTERSTATE COMMERCE COMMISSION, APPELLANTS,

vs.

LOUISIANA AND PACIFIC RAILWAY CO. ET AL.

No. 330.

ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY ET AL., APPELLANTS,

vs.

LOUISIANA AND PACIFIC RAILWAY CO. ET AL.

No. 331.

UNITED STATES AND INTERSTATE COMMERCE COMMISSION, APPELLANTS,

vs.

WOODWORTH AND LOUISIANA CENTRAL RAILWAY COMPANY ET AL.

No. 332.

ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY ET AL., APPELLANTS,

vs.

WOODWORTH AND LOUISIANA CENTRAL RAILWAY COMPANY ET AL.

No. 333.

UNITED STATES AND INTERSTATE COMMERCE COMMISSION, APPELLANTS,

vs.

MANSFIELD RAILWAY AND TRANSPORTATION COMPANY ET AL.

No. 334.

ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY ET AL., APPELLANTS,

vs.

MANSFIELD RAILWAY AND TRANSPORTATION COMPANY ET AL.

No. 335.

UNITED STATES AND INTERSTATE COMMERCE COMMISSION, APPELLANTS,

vs.

VICTORIA, FISHER AND WESTERN RAILROAD COMPANY ET AL.

No. 336.

ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY ET AL., APPELLANTS,

vs.

VICTORIA, FISHER AND WESTERN RAILROAD COMPANY ET AL.

APPEALS FROM THE UNITED STATES COMMERCE COURT.

FILED DECEMBER 29, 1913.

(23,980—23,986)

[Filed in the United States Circuit Court May 6, 1918, and printed under direction of the Clerk.]

IN THE

United States Commerce Court.

No. 90.

LOUISIANA & PACIFIC RAILWAY COMPANY ET AL., PETITIONERS,

vs.

THE UNITED STATES OF AMERICA ET AL., RESPONDENTS; INTERSTATE COMMERCE COMMISSION ET AL., INTERVENERS.

No. 91.

WOODWORTH & LOUISIANA CENTRAL RAILWAY COMPANY, LIMITED, ET AL., PETITIONERS,

vs.

THE UNITED STATES OF AMERICA ET AL., RESPONDENTS; INTERSTATE COMMERCE COMMISSION ET AL., INTERVENERS.

No. 92.

MANSFIELD RAILWAY & TRANSPORTATION COMPANY ET AL., PETITIONERS,

vs.

THE UNITED STATES OF AMERICA, RESPONDENT; INTERSTATE COMMERCE COMMISSION ET AL., INTERVENERS.

No. 93.

VICTORIA, FISHER & WESTERN RAILROAD COMPANY ET AL., PETITIONERS,

vs.

THE UNITED STATES OF AMERICA, RESPONDENT; INTERSTATE COMMERCE COMMISSION ET AL., INTERVENERS.

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JUDD & DETWEILER (INC.), PRINTERS, WASHINGTON, D. C.

	Original.	Print
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a WASHINGTON, D. C., *May* 8, 1913.

To G. F. Snyder, Clerk United States Commerce Court, Washington, D. C.

DEAR SIR: Relating to exhibits introduced before the Commission in the Tap Line Cases, Nos. 90, 91, 92, and 93, you are requested to print only such exhibits as Dr. Needham and I designated to be printed during our conference in your office on May 8, 1913.

Yours truly, H. M. GARWOOD, *Att'y.*

1 Interstate Commerce Commission, Washington.

I, George B. McGinty, Secretary of the Interstate Commerce Commission, do hereby certify that the papers herewith attached are true copies of all the exhibits, except maps which are not attached hereto or made a part hereof, filed in the record in the proceeding entitled "In the Matter of the Investigation and Suspension of Schedules Cancelling Through Rates with Certain Tap Line Connections," Investigation and Suspension Docket No. 11, by the Louisiana and Pacific Railway Company, the Woodworth & Louisiana Central Railway Company, Mansfield Railway and Transportation Company, and intervenors, Alexander Gilmer Lumber Company, Industrial Lumber Company, Kirby Lumber Company, Lutcher-Moore Lumber Company and Yellow Pine Manufacturers Association, the originals of which are now on file and of record in the office of this Commission.

In testimony whereof, I have hereunto subscribed my name, and affixed the seal of the Commission, this 30th day of April, 1913.

[Seal Interstate Commerce Commission, 1887.]

GEORGE B. McGINTY,
Secretary of the Interstate Commerce Commission.

2 EXHIBIT No. 3.

Lumber Originating on Louisiana & Pacific Railway Company and Delivered to Connecting Lines for Six Months Ending October 31st, 1910.

	No. of cars.	Tons.	Revenue.	Aver. load. Tons.
G. C. & S. F. Ry. at De Ridder, La.	7	144	143.80	20.6
K. C. S. Ry. at De Ridder, La.	297	8,119	4,585.27	27.3
K. C. S. Ry. at Bonami, La.	140	3,587	2,424.97	25.6
K. C. S. Ry. at Lake Charles, La.	20	482	320.49	24.1
N. O., T. & M. R. R. at Fulton, La.	2,600	61,095	65,527.76	23.5
St. L., I. M. & S. at Lake Charles, La.	347	8,003	5,809.35	23.1
So. Pac. Ry. at Lake Charles, La.	2,271	61,410	39,932.88	27.0
Total	5,682	142,840	118,744.52	25.1

Forest Products Handled Locally on the Louisiana & Pacific Railway Company for Six Months Ending October 31st, 1910, for Other Than Hudson River, King-Ryder, Longville, and Calcasieu L. L. Lumber Companies.

	No. of cars.	Tons.	Revenue.	Aver. load. Tons.
Pine Knots.....	68	1,372	476.66	20.2
Lumber	8	137	136.95	17.1

Handled for Hudson River, King-Ryder, Longville, and Calcasieu L. L. Lumber Companies.

Lumber	80	2,259	714.97	28.2

Louisiana & Pacific.
Interstate Commerce Commission Docket No. 11, I. & S. Exhibit No. 3. Witness, McLean. Complainants, ——. Date, 12, 13, '10. Defendants, ——. Steno., Philips.
See p. 1566.

3 All Parties.
Other than Lumber.

Statement of Carloads & Less Than Carloads Originating on the Louisiana & Pacific Ry. Co. for Six Months Ending October 31st, 1910, Delivered to Various Connecting Lines.

	Revenue.	Total tons.	Mdse.	H.H.goods & furnt.	Naval stores.	Miscl.	Fruits. & vegts.
G. C. & S. F. Ry.	10.94	2	1	1	..	..	..
K. C. S. Ry....	674.00	535	6	3	455	22	49
N.O.T.&M.R.R.	306.84	134	12	3	50	69	..
So. Pac. Ry....	94.68	66	6	2	26	32	..
St. L., I. M. & S. Ry.	16.10	3	2	1	..	..	..
Total...	1102.56	740	27	10	531	123	49
No. of Car loads	..	..	..	..	..25	7	4

(Here follows table, marked p. 4.)

Statement of Carloads and Less Than Carloads Received by the Louisiana & Pacific Railway Company from Connecting Lines for the Six Months Ending October 31st, 1910.

Handled for Industries Other Than Hudson River, King-Ryder, Longville, and Calcasieu L. L. Lumber Companies.

	Revenue.	Total tons.	Mdse.	H. H. goods & furnt.	Grain.	Hay.	Other mill products.	Sugar.	Packing-house products.	Oil.	Sand.	Other mfrs.	Other products, agriculture.	Flour.	Cement, brick & lime.	Other castings & machinery.
G. C. & S. F. Ry....	27.95	6	3	3												
K. C. S. Ry.....	129.00	110	9	1	62	23	15									
N. O., T. & M. R. R..	418.17	254	88	2	..	10	..	113	41							
So. Pac. R.....	183.72	106	7	..	..	..	..	..	..	99						
St. L., I. M. & S. Ry.	374.91	147	18	1	112	..	17									
Total	1,133.75	623	125	7	174	33	32	113	41	99						
No of carloads.....	....	..	..	..	8	3	2	6	3	7						

Handled for Hudson River, King-Ryder, Longville, and Calcasieu L. L. Lumber Companies.

G. C. & S. F. Ry....	13.99	4	4													
K. C. S. Ry.....	618.28	360	41	..	133	50	53	..	..	..	40	28	15	..	..	..
N. O., T. & M. R. R..	202.29	94	34	..	..	..	..	..	..	..	..	..	..	45	15	..
S. Pac. Ry.....	646.29	304	157	..	..	..	..	..	..	38	..	12	..	..	..	97
St. L., I. M. & S. Ry.	598.42	235	94	..	39	..	16	..	..	..	..	18	..	..	68	..
Total.....	2,079.27	997	330	..	172	50	69	..	..	38	40	58	15	45	83	97
					9	4	4	..	..	3	1	3	1	3	4	4

Local Freight Handled for Six Months Ending October 31st, 1910.

For Other Than Hudson River, King-Ryder, Longville, and Calcasieu Lumber Cos.

	Revenue.	Total tons.	Mdse.	H. H. goods & furnt.	Fruit & vegts.	Cement, brick & lime.	Other mfrs.	Wool.	Other cast'gs & macy.	Miscl.
	1,123.80	341	201	16	18	60	30	16	..	..
No. of carloads.....	.....	...	...	..	1	3	2	2	..	..

Handled for Above-named Lumber Companies.

	1,928.89	973	337	..	..	73	463	..	88	6
No. of carloads.....	.....	...	...	..	..	3	30	..	2	1

5 Louisiana & Pacific.

Interstate Commerce Commission Docket No. 11, I. & S. Exhibit No. 4. Witness, Davis. Complainants, ——. Date 12, 13, '10. Defendants, ——. Steno., Philips.

See p. 1617.

Ex. A.

The annual reports of the Railroads to the Railroad Commission of Louisiana, for the year ending June 30th, 1910, show the following to be the percentages of the tonnage of lumber, logs and staves of all freight carried, including intrastate and interstate business.

Name of railroad.		Per cent of lumber, logs and staves.
Arkansas, Louisiana & Gulf Ry. Co		65.38%
Arkansas Southeastern Railroad Co		90.23%
Bernice & Northwestern Ry. Co		98.50%
Brimstone Ry. & Canal Co		8.23%
Brimstone	60.44%	
Petroleum and oils	27.36%	
Chicago, Rock Island & Pac. Ry. Co		68.41%
Dorcheat Valley Ry. Co—		
Lumber		19.98%
Logs		76.07%
Staves		3.46%
Gulf, Colo. & Santa Fe Ry. Co		92.25%
(Only two other commodities that exceed one (1%) per cent.)		
Gulf & Sabine River R. R. Co		97.39%
Houston & Shreveport R. R. Co. (Greatest tonnage of any single commodity)		36.91%
Illinois Central R. R. Co. (Greatest tonnage of any single commodity)		25.33
Kansas City Southern Ry. Co. (Petroleum and other oils 33.17%)		39.14%
6 Kentwood & Eastern Ry. Co		93.19%
Kentwood, Greenburg & Swn. Ry. Co		61.59%
Lake Charles Ry. & Nav. Co.		
Leesville East & West Ry. Co		100.00%
Loring & Western Ry. Co		100.00%
Louisiana & Arkansas Lumber Co.—		
Lumber		36.71%
Other forest products		51.51%
		88.22%
Louisiana & Nw. R. R. Co		70.90%
Louisiana Central R. R. Co		99.28%
Louisiana Railway Co		99.28%

Louisiana Western Railway Co. (Greatest tonnage of any singe commodity hauled)	27.58%
Mansfield Ry. & Transptn. Co	67.04%
Missouri, Kansas & Tex. Ry. Co. of Tex	45.99%
Monroe & Swn. Ry. Co.—	
Lumber	16.74%
Logs	82.70%
Morgans La. & Texas R. R. & S. S. Co. (Greatest tonnage of any single commodity hauled except one other)	24.44%
New Orleans & Northeastern R. R. Co	36.41%
New Orleans, Great Northern R. R. Co	77.53%
New Orleans, Natalbany & Natchez R. R. Co	98.02%
St. Louis, Iron Mountain & Southern Ry. Co.—	
Lumber	41.45%
Other forest products	11.26%
	52.71

Includes the following:
St. L. I. M. & S. Ry.
St. L. W. & G. Ry.
N. O. & N. W. R. R.
N. & W. R. R.
F. & S. Ry.
M. & L. R. Ry.

	North La. & Gulf R. R. Co.—	
	Lumber	93.70%
	Ties	3.46%
7	Ouachita & Northwestern Ry. Co	95.89%
	Opelousas, Gulf & N. E. R. R. Co	22.71%
	Red River & Gulf R. R. Co	96.52%
	Sabine & Northern R. R. Co	98.92%
	St. Louis Swn. Ry. Co.—	
	Lumber	42.27%
	Other forest products	11.90
	Texas & Pacific Ry. Co	24.17%
	Tremont & Gulf Ry. Co	87.28%
	Vicksport, Shreveport & Pac. Ry. Co	45.02%
	Victoria, Fisher & Western R. R. Co	99.89%
	Yazoo & Mississippi Valley R. R. Co	35.41%
	Zachary & Northeastern R. R. Co	92.29
	Zwolle & Eastern R. R. Co	99.40%
	Louisiana & Pacific Railway Co	96.49
	Sibley, Lake Bisteneau & Sou. Ry. Co	84.43%
	Woodworth & La. Cent. R. R. Co	93.00%
	Tioga & Southeastern R. R. Co. Over	90.00%

On all the railroads shown above, the tonnage of lumber, logs and staves hauled, exceeds the tonnage of any other single commodity, considering the three commodities named as one.

On 31 of the railroads named, the tonnage hauled of lumber, logs and staves, is over 50 per cent. of the entire tonnage hauled.

On all of the railroads named, the tonnage of lumber exceeds 25% of all tonnage hauled except on five of them.

8 I, W. M. Barron, Secretary of the Railroad Commission of Louisiana, do hereby certify that the above statement was made by me, from the original records on file in the office of the Railroad Commission of La. at Baton Rouge, La., & the same is correct.

W. M. BARRON,
Secretary R. R. Com. of La.

New Orleans, La., Dec. 12th, 1910.

Statement of Tonnage of Lumber and Forest Products Originating on the Louisiana & Pacific Ry. for the Fiscal Years Ending June 30th, 1908, June 30th, 1909, and June 30th, 1910, Showing by Whom Shipped, Tonnage Delivered to Each Connecting Line and Tonnage Having Final Destination on the Louisiana & Pacific Railway.

July 1st, 1907, to June 30th, 1908.

Name of shipper.	Delivered to					Dest'n on L. & P. Ry.	Total.
	G. C. & S. F. Ry.	K. C. S. Ry.	N. O., T. & M.	St. L., I. M. & S.	L. A. West.		
Hudson River Lbr. Co.....	14,570	19,686	10,328	....	....	1,412	45,996
King Ryder Lbr. Co.....	19,246	28,646	12,216	....	....	4,865	64,973
Calcasieu L. L. Lbr. Co.....	....	2,210	....	2,941	20,364	....	25,515
Deer Creek Lbr. Co.....	....	201	....	....	....	668	869
W. B. Strange.....	....	55	....	....	....	....	55
W. B. Wilson.....	....	....	....	....	....	49	49
*Total.....	33,816	50,798	22,544	2,941	20,364	6,994	137,457

July 1st, 1908, to June 30th, 1909.

Hudson River Lbr. Co.....	3,732	5,983	24,970	1,075	9,426	729	45,915
King Ryder Lbr. Co.....	5,145	12,371	38,383	1,030	13,732	1,352	72,013
Longville Lbr. Co.....	27	2,399	16,219	1,160	12,104	....	31,909
Calcasieu L. L. Lbr. Co.....	....	1,598	10,253	3,518	34,802	25	50,196
The Kern Company.....	....	119	....	....	....	....	119
S. P. Martin.....	....	....	....	....	57	....	57
C. S. Lewis.....	....	....	....	....	....	63	63
P. Valeton.....	....	....	386	....	....	....	386

THIS PAGE

J. L. Windle	....	....	....	....	59	....	59
*Total	8,904	22,470	90,211	6,783	70,180	2,169	200,717
July 1st, 1909, to June 30th, 1910.							
Hudson River Lbr. Co	90	5,014	21,537	2,422	17,738	124	46,925
King Ryder Lbr. Co	127	8,845	31,189	3,127	23,843	15	67,146
Longville Lbr. Co	23	4,780	33,691	4,273	29,735	200	72,702
Calcasieu L. L. Lbr. Co	19	2,399	16,775	3,537	32,811	133	55,674
J. O. Stout	....	....	31	....	....	....	31
Green Bros	....	....	....	....	....	28	28
J. Roberts	....	....	....	....	....	16	16
W. E. Brown	....	....	....	....	....	100	100
Levi Rollins	....	....	....	....	....	360	360
T. McKimon	....	....	....	....	....	140	140
*Total	259	21,038	103,223	13,359	104,127	1,116	243,122

10 *List of Stockholders of the Louisiana and Pacific Railway Company.*

Name.	Jan. 1, 1910.	Dec. 1, 1910.
Bannister, F. J	2,700.00	2,700.00
Bannister, Edith M	300.00	300.00
Long, R. A	23,700.00	23,700.00
Long, Mrs. R. A	300.00	300.00
Sweet, Jennie L	300.00	300.00
Sweet, C. B	2,700.00	2,700.00
	$30,000.00	$30,000.00

Kansas City, Mo.

List of Bondholders of Record January 1st, 1911.

Name.	Address.	Amount.
Mary King	Excelsior Springs, Mo	$1,000.00
Calcasieu Trust & Savings Co.	Lake Charles, La	39,300.00
H. E. Sweet	De Ridder, La	5,000.00
C. A. Paxson	De Ridder, La	5,000.00
C. E. Moore	De Ridder, La	2,000.00
L. C. Congdon	De Ridder, La	3,500.00
F. A. Clapp	De Ridder, La	3,500.00
Geo. Kingery	Lake Charles, La	6,000.00
W. F. Ryder	Bonami, La	50,000.00
C. E. Ryder	Bonami, La	1,000.00
P. H. Lane	Bonami, La	400.00
A. L. Sweet	Kansas City, Mo	8,400.00
Rob't Stack	Woodworth, La	5,500.00
First National Bank	Kansas City, Mo	25,000.00
National Bank of Commerce	Kansas City, Mo	19,300.00
Commerce Trust Company	Kansas City, Mo	15,000.00
Southwest National Bank	Kansas City, Mo	17,500.00
Lumberman's National Bank	Houston, Texas	25,000.00
Cora Smith	Kansas City, Mo	1,000.00
Gate City National Bank	Kansas City, Mo	5,000.00
R. W. Swank	Lufkin, Texas	1,500.00
S. M. Morris	Lufkin, Texas	2,000.00
Charles Calise	Lufkin, Texas	200.00

Susan S. Morris	Rogers, Ark	1,000.00
Calcasieu Long Leaf Lumber Co	Lake Charles, La	96,300.00
King-Ryder Lumber Company	Bonami, La	108,800.00
Hudson River Lumber Company	De Ridder, La	95,000.00
Longville Lumber Company	Longville, La	50,500.00
		$593,700.00

PAGE BOUND

12 591. United States District Court for the Western District of Louisiana. United States of America vs. Louisiana & Pacific Railway Company. Judgment. Filed Feb. 20, 1911. Leroy B. Gulotta, Clerk, U. S. District Court. West. District of Louisiana.

13 District Court.

No. 591.

UNITED STATES OF AMERICA, Plaintiff,
vs.
LOUISIANA & PACIFIC RAILWAY COMPANY, Defendant.

This cause having come to be heard in due course, and the Court having considered the pleadings and the evidence in the case, by reason of the confession of the Defendant, as shown in its answer, and the law and the evidence being in favor of the Plaintiff and against the Defendant—it is therefore

Ordered, adjudged and decreed that the said Plaintiff, United States of America, do have and recover of the Defendant, Louisiana & Pacific Railway Company, the sum of One Hundred and no/100 Dollars ($100.00) and all costs of this proceeding.

Thus done, read and signed in open court on this the 20th day of February, A. D. 1911.

ALECK BOARMAN,
U. S. Judge.

Endorsed: No. 591. D. C. U. S. vs. Louisiana & Pacific Ry. Co. Judgment. Filed Feb. 20th, 1911. Leroy B. Gulotta, Clerk, U. S. District Court, West. Dist. of Louisiana.

A true copy:
Attest:
[SEAL.]

LEROY B. GULOTTA,
Clerk U. S. District Court,
Western District of Louisiana.

14 Before the Interstate Commerce Commission.

Docket No. 1319.

STAR GRAIN AND LUMBER COMPANY et al.
v.
ATCHISON, TOPEKA & SANTA FE RY. CO. et al.

In the Matter of the Tap Line Allowances and Divisions, Being Docket Nos. 3400, Sub. 6, 3400, Sub. 7, 3493, 3512, 3513, 3514, 3524, 2548, 2551, 2552, and 2564, Consolidated under Investigation and Suspension Docket No. 11.

STATE OF LOUISIANA,
Parish of Calcasieu, ss:

C. M. Boswell, being duly sworn on his oath states that he is the Superintendent of the Lake Charles and Northern Railroad Com-

pany, and the General Superintendent of the Louisiana and Pacific Railway Company.

That as such Superintendent of each of said roads, on or about the Twenty Eighth day of October, 1908, he has given instructions to the joint agents of the Lake Charles and Northern Railroad Company and the Louisiana and Pacific Railway Company, that when a shipment was offered to a point on the joint track of said railroad companies, between Lake Charles and De Ridder, or to a competitive point beyond said points, that the agents should require the shipper to designate over which line of road such shipments should be sent, and to the best of my knowledge and belief, and from personal conversation with agents, all such shipments have been taken over the road so designated by the shipper, and I know of no case in which the shippers did not designate the road over which such shipment was to go.

This affidavit is made in response to request made by R. S. Davis, Traffic Manager of the Louisiana and Pacific Railway Company, pursuant to the suggestion of the Commissioner who took the evidence at New Orleans on the 8th, to the 15th days of December, 1910.

C. M. BOSWELL.

Subscribed and sworn to before me this Twenty Ninth Day of December, 1910.

[SEAL.] ROBERT JONES,
Notary Public in and for Calcasieu Parish, La.

My commission expires Sept. 1st, 1915.

15 Before the Interstate Commerce Commission.

STAR GRAIN & LUMBER COMPANY
vs.
ATCHISON, TOPEKA & SANTA FE RY. CO. et al.

In the Matter of Tap Line Allowances and Divisions at New Orleans, December 8-17, 1910.

In re Louisiana & Pacific, Sibley, Lake Bisteneau and Southern, and Woodworth & Louisiana Central Ry. Companies.

STATE OF MISSOURI,
County of Jackson, ss:

A. L. Sweet being duly sworn on his oath states that he attends to the rendering of the property of the Louisiana and Pacfiic Railway Company for taxation and knows how such property is assessed.

That said property is assessed in the same manner as any other standard railroad property in the State of Louisiana, all of which will appear by the Report of the State Board of Appraisers for the

State of Louisiana for the years 1909 and 1910, and on pages 14 and 97 of the report for 1909 and on pages 15 and 105 of the Report for 1910.

A portion of said railroad is exempt from taxation under the constitution and laws of the State of Louisiana, exempting railroads from taxation for a period of ten years.

Affiant attaches hereto copies of that portion of the Report of the State Board of Appraisers of Louisiana above referred to and affiant states that said copies hereto attached are correct copies and correctly show the manner and amount of the assessments of said road for said years.

Affiant further states that he also prepares the renditions to the State Board of Appraisers for the Sibley, Lake Bisteneau and Southern and the Woodworth and Louisiana Central Railway Companies, which are assessed in the same manner and which assessments are shown on pages 29, 36, 103 of the Report for 1909 and on pages 30, 38, 111 of the Report for 1910, copies of which are hereto attached; and for the information of the Commission one complete copy of the Report to the State Board of Appraisers, for the years 1909 and 1910, showing assessments of all railroads in the State of Louisiana and showing that the Louisiana and Pacific, Sibley, Lake Bisteneau and Southern and the Woodworth & Louisiana Central Railways are assessed in the same manner as other railroads, is herewith transmitted.

This affidavit is made in response to the question of Commissioner Harlan, at the New Orleans hearing, as to how these roads were assessed.

A. L. SWEET.

Subscribed and sworn to before me this 16th day of January, 1911.

[SEAL.] R. T. DEMSEY,
Notary Public in and for
Jackson County, Missouri.

My Commission expires Feb'y 28, 1914.

16 Extract from Report Made by the State Board of Appraisers of the State of Louisiana Showing the Assessments Made of Property Employed in the Railway * * * Business for the Years 1909 and 1910.

(The following from Page 14 of the Report for 1909 showing assessment certified for taxation for that year:)

Louisiana & Pacific Railway Company.

C. B. Sweet, Vice-President, Kansas City, Mo.

Calcasieu Parish.

0.90 of a mile of main track at $3,500	$3,150.00
31.00 miles of logging spurs at 875	27,125.00
Rolling stock of the road	133,150.00
	$163,425.00

(The following from Page 97 of the Report for 1909 showing valuations placed on exempted Railroads for that year:)

Louisiana & Pacific Railway Company.

C. B. Sweet, Vice-President, Kansas City, Mo.

Calcasieu Parish.

26.17 miles of main track at $3,500	$91,595.00
3.50 miles of side track at 875	3,063.00
	$94,658.00

(The following from Page 15 of the Report for 1910 showing assessment certified for taxation for that year:)

Louisiana & Pacific Railway Company.

C. B. Sweet, Vice-President, Kansas City, Mo.

Calcasieu Parish.

2.58 *of a* mile- of main track at $3,500	$9,030.00
1.33 miles of side track at 875	1,163.00
Rolling stock of the road	133,150.00
	$143,343.00

(The following from Page 105 of the Report for 1910 showing valuations placed on exempted Railroads for that year:)

Louisiana & Pacific Railway Company.

C. B. Sweet, Vice-President, Kansas City, Mo.

Calcasieu Parish.

26.77 miles of main track at $3,500	$93,695.00
7.79 miles of side track at 875	6,916.00
	$100,611.00

Certified by me as a part of the affidavit of A. L. Sweet hereto attached.

My term expires February 28, 1914.

[SEAL.]

R. T. DEMSEY,
Notary Public in and for
Jackson County, Missouri.

17 Extract from Report Made by the State Board of Appraisers of the State of Louisiana Showing the Assessments Made of Property Employed in the Railway * * * Business for the Years 1909 and 1910.

(The following from Page 29 of the Report for 1909 showing assessment certified for taxation for that year:)

Sibley, Lake Bisteneau & Southern Railway Company.

C. B. Sweet, Vice-President, Kansas City, Mo.

Webster Parish.

8.50 miles of main track at $4,000	$34,000.00
0.75 of a mile of side track at 1,000	750.00
Rolling stock of the road	36,250.00
	$71,000.00

(The following from Page 103 of the Report for 1909 showing valuations placed on exempted Railroads for that year:)

Sibley, Lake Bisteneau & Southern Railway Company.

C. B. Sweet, Vice-President, Kansas City, Mo.

Bienville Parish.

12.00 miles of main track at $4,000	$48,000.00
0.50 of a mile of side track at $1,000	500.00
	$48,500.00

Red River Parish.

8.50 miles of main track at $4,000	$34,000.00
0.75 of a mile of side track at $1,000	750.00
	$34,750.00

Webster Parish.

1.00 mile of main track at $4,000	$4,000.00
0.75 mile of side track at $1,000	750.00
	$4,750.00

Recapitulation.

21.50 miles of main track at $4,000	$86,000.00
2.00 miles of side track at $1,000	2,000.00
	$88,000.00

(The following from page 30 of the Report for 1910 showing assessment certified for taxation for that year:)

Sibley, Lake Bisteneau & Southern Railway Company.

C. B. Sweet, Vice-President, Kansas City, Mo.

Webster Parish.

8.50 miles of main track at $4,000	$34,000.00
0.75 of a mile of side track at 1,000	750.00
Rolling stock of the road	36,250.00
	$71,000.00

(The following from Page 111 of the Report for 1910 showing valuations placed on exempted Railroads for that year:)

Sibley, Lake Bisteneau & Southern Railway Company.

C. B. Sweet, Vice-President, Kansas City, Mo.

Bienville Parish.

12.00 miles of main track at $4,000	$48,000.00
0.50 of a mile of side track at $1,000	500.00
	$48,500.00

Red River Parish.

8.50 miles of main track at $4,000	$34,000.00
0.75 miles of side track at $1,000	750.00
	$34,750.00

Webster Parish.

1.00 mile of main track at $4,000	$4,000.00
0.75 of a mile of side track at $1,000	750.00
	$4,750.00

Recapitulation.

21.50 miles of main track at $4,000	$86,000.00
2.00 miles of side track at $1,000	2,000.00
	$88,000.00

Certified by me as a part of the affidavit of A. L. Sweet hereto attached.

[SEAL.]

R. T. DEMSEY,
Notary Public, Jackson Co., Mo.

Term expires February 28, 1914.

18 *Extract from Report Made by the State Board of Appraisers of the State of Louisiana Showing the Assessments Made of Property Employed in the Railroad * * * Business for the Years* 1909 *and* 1910.

(The following from Page 36 of the Report for 1909 showing assessment certified for taxation for that year:)

Woodworth & Louisiana Central Railway Company.

C. B. Sweet, Vice-President, Kansas City, Mo.

Rapides Parish.

24.00 miles of main track at $3,500	$84,000.00
Rolling stock of the road	17,800.00
	$101,800.00

(The following from Page 38 of the Report for 1910 showing valuations placed on exempted Railroads for that year:)

Woodworth & Louisiana Central Railway Company.

C. B. Sweet, Vice-President, Kansas City, Mo.

Rapides Parish.

24.00 miles of main track at $3,500	$84,000.00
Rolling stock of the road	17,800.00
	$101,800.00

Certified by me as a part of the affidavit of A. L. Sweet, hereto attached.

My term expires February 28, 1914.

[SEAL.] R. T. DEMSEY,
Notary Public in and for Jackson County, Missouri.

19 Shreveport, Alexandria & Southwestern Railway System. Operating Sibley, Lake Bisteneau & Southern Railway Co., Woodworth and Louisiana Central Railway Co., Louisiana & Pacific Railway Co.

KANSAS CITY, MO., *January* 14, 1911.

Mr. W. R. Thurmond, General Attorney—Office.

DEAR SIR: Commissioner Harlan asked me for a comparison of L. & P. Co.'s indebtedness to the various Lumber Companies on its Line, as of date June 30th, 1908, compared with April 30, 1909. The following statement shows the comparisons:

	June 30, '08.	Apr. 30, '09.
Due Hudson River Lumber Company	$115,620.00	133,842.61
The increase is caused by L. & P. purchasing 36 Log Cars and 1 Caboose.		
Due King-Ryder Lumber Company..	$137,113.00	149,820.93
The increase is due to L. & P. purchasing 20 Log Cars, 5 Flat Cars and 1 Tank Car.		
Due Calcasieu Long Leaf Lumber Company	$109,816.57	151,611.34
The increase is occasioned as follows: L. & P. purchased from the Calcasieu Co. the following:		
3 new Standard Gauge Locos. $29,204.00		
Expense converting Log Cars from N. G. to S. G $843.44		
2 Shay Locos. formerly N. G. $7,000.00		

Yours truly,

P. C. RICKEY,
General Auditor.

P. C. R. D.

20 Woodworth & La. Cent.
Interstate Commerce Commission Docket No. 11, I. & S. Exhibit No. 1. Witness, Stack. Complainants, ——. Date, 12, 14, '10. Defendants, ——. Steno., Philips.
See p. 1965.

Woodworth and Louisiana Central Railway Company.

Tonnage Handled for Twelve Months Ending June 30th, 1910.

	Tons originating on our line.	Tons received from other lines.	Total tons.
Farm products.....	2,144	177	2,321
Animal "	....	11	11
Mine "	....	199	199
Lumber "	39,773	48	39,821
Oils, etc.	....	40	40
Machinery	....	77	77
Cement and Brick.....	....	73	73
Furniture	....	8	8
Merchandise	....	67	67
Miscellaneous	40	150	190
Total.....	41,957	850	42,807

21 Shreveport, Alexandria & Southwestern Railway System, Operating Sibley, Lake Bisteneau & Southern Railway Co., Woodworth and Louisiana Central Railway Co., Louisiana & Pacific Railway Co.

KANSAS CITY, MO., ——, ——.

Statement of Freight Received and Forwarded by the Woodworth & Louisiana Central Railway Company, July, 1909, to June, 1910, Inclusive.

	Weight
Outbound:	
Lumber freight, originated by Rapides Lumber Company	79,788,112#
Misel. freight, originated by Rapides Lumber Company	17,964#
Misel. freight, originated by others	4,107,924#
Inbound:	
Misel. consigned to Rapides Lumber Company	1,606,978#
Misel. consigned to others	93,022#
Total	85,614,000#

12, 10, '10.

22 *Tonnage Handled by Woodworth & Louisiana Central Railway Co. for Six Months Ending November 30th, 1910.*

48,773,600# of lumber.
24,000# potatoes.
17,000# hay.
766,099# merchandise.
2,080,000# cane.

23 *List of Stockholders and Amount of Stock of the Woodworth & Louisiana Central Ry. Co.*

January 1, 1910.

Article #43.

Name	Shares	Amount
R. A. Long	205.2325	20,523.25
F. J. Bannister	.1938	19.38
J. W. Bolton	18.0697	1,806.97
F. P. Bolton	3.814	381.40
Robert Stack	4.752	475.20
C. B. Sweet	1.938	193.80
Mattie I. Stack	3.	300.00
Minna R. Bolton	2.	200.00
Mary C. Bolton	11.	1,100.00
	250.	25,000.00

24 *List of Stockholders and Amount of Stock of the Rapides Lumber Co., Ltd.*

January 1, 1910.

Name	Shares	Amount.
E. A. Long	1,059	$105,900.00
J. W. Bolton	150	15,000.00
Robert Stack	40	4,000.00
F. P. Bolton	30	3,000.00
C. B. Sweet	10	1,000.00
F. J. Bannister	1	100.00
	1,290	$129,000.00

25 *Extract from Report Made by the State Board of Appraisers of the State of Louisiana Showing the Assessments Made of Property Employed in the Railway * * * Business for the Years 1909 and 1910.*

(The following from Page 36 of the Report for 1909 showing assessment certified for taxation for that year:)

Woodworth & Louisiana Central Railway Company.

C. B. Sweet, Vice-President, Kansas City, Mo.

Rapides Parish.

24.00 miles of main track at $3,500	$84,000.00
Rolling stock of the road	17,800.00
	$101,800.00

(The following from Page 38 of the Report for 1910 showing valuations placed on exempted Railroads for that year:)

Woodworth & Louisiana Central Railway Company.

C. B. Sweet, Vice-President, Kansas City, Mo.

Rapides Parish.

24.00 miles of main track at $3,500	$84,000.00
Rolling stock of the road	17,800.00
	$101,800.00

Certified by me as a part of the affidavit of A. L. Sweet, hereto attached.

My term expires February 28, 1914.

[SEAL.] R. T. DEMSEY,

Notary Public in and for Jackson County, Missouri.

26 MAR. 29, 1913.

The following exhibits are included in Mansfield Railway & Transportation Co. Exhibit 1, the cover being stamped:—

Mansfield Ry. & Trans. Co.
Interstate Commerce Commission Docket No. 11 I. & S. Exhibit No. 1. Witness, Frost. Complainants, ——. Date, 1, 26, '11. Defendants, ——. Steno., Philips.
See Page 5100.

Time Table No. 4.
General statement of length, equipment, revenues, etc.
Statement of capital stock, cost of road, tonnage, and operating revenues and expenses.
Letter from W. S. Wood, Sec. & Treas., to E. A. Frost, Pres., giving statistics of tonnage for year 1910.
List of firms and individuals served by M. R. & T. Co.

MANSFIELD RAILWAY AND TRANSPORTATION COMPANY.

Time Table No. 4—Cancels Time Table No. 3.

Effective November 1, 1910.

15	11	9	7	5	3	1	Mls.			2	6	4	8	10	12	16
P.M.	A.M.	A.M.	P.M.	P.M.	A.M.	A.M.		Leave.	Arrive.	A.M.	P.M.	A.M.	P.M.	A.M.	A.M.	P.M.
.....	.....	.....	*9.20	*8.30	*5.25	*4.30	0	.....Mansfield [1].....		5.20	9.15	5.55	9.50	.....	.....	.....
								Arrive.	Leave.							
.....	.....	.....	9.30	8.40	5.35	4.40	2	.....Mansfield Jct. [2].....		*5.10	*9.05	*5.45	*9.40	.....	.....	.....
								Leave.	Arrive.							
.....	.....	†7.30	.....	.....	.....	.....	0	.....Mansfield [1].....		.....	.....	.....	.....	9.30	.....	.....
†1.00	†7.00	7.45	.....	.....	.....	.....	1.5	..... Oak Hill.....		.....	.....	.....	.....	9.22	10.00	4.00
.....	.....	8.00	.....	.....	.....	.....	6	.....Bakers.....		.....	.....	.....	.....	9.10	.....	.....
.....	.....	8.15	.....	.....	.....	.....	11	.....Burgess.....		.....	.....	.....	.....	8.55	.....	.....
2.00	8.00	8.25	.....	.....	.....	.....	14	..... Hunters		.....	.....	.....	.....	†8.45	†9.06	†3.00
								Arrive.	Leave.							
.....	.....	.....	.....	.....	.....	.....				.....	.....	.....	.....	.....	.....	.....

* Daily; Motor Car Service.

† Daily, except Sunday; Trains Nos. 9 and 10 carry mail. Trains Nos. 11, 12, 15 and 16 Log Trains.

Connections: { [1] With Kansas City Southern Ry. [2] With Texas & Pacific Ry.

MANSFIELD, LA., *October* 18, 1910.

W. S. WOOD,
G. F. & P. A.

I. & S. DOCKET NO. 11 (TAP-LINE CASE).

21

THIS PAGE BOUND VERTICAL IN BOOK

28 The Mansfield Railway & Transportation Company, Chartered February 16th, 1881.

Main Line Track 15.85.
Side Tracks .30.
Guage 4' 8½". Maximum grade 1.5%.
Number of Stockholders 5.
Number of Directors 5.

Equipment consists of one Locomotive, one Box Car and one Passenger Car, all equipped with safety appliances.

Station Buildings at the following places: Mansfield, Bakers and Hunter.

One One Hundred Ton 40 ft. Track Scale at Oak Hill.

Track laid with 56# steel rails. Oak ties.

Number of Employees, 25.

Total Revenue from Lumber	$13,677.49	
Revenue from Lumber from Lumber Company	12,497.69	
Revenue from Lumber from Other Shippers	1,179.80	
Per cent of Lumber revenue from Lumber Company lumber		91.4
Per cent of Lumber revenue from Other Shipping		8.6
Per cent of Lumber revenue from Lumber Company lumber to total Freight revenue		48.8
Total revenue from other Forest Products (All from independent sources.)	369.18	
Revenue from other freight for Lumber Co.	1,982.16	
Revenue from other freight Other Sources	9,588.36	
Total	11,570.52	
Per cent of other Freight revenue from Lumber Company		17.13
Per cent of other Freight revenue from Lumber Company to total freight revenue		7.74
Total Freight revenue Lumber Company business, all sources	14,479.85	
Total Freight revenue from others, all sources	11,137.34	
	25,617.19	
Per cent of revenue derived from business from Lumber Company to total Freight revenue		56.52
Number of passengers carried		3,812
Passenger revenue	1,196.91	
Average amount received from each passenger		.3139¢

Passenger revenue per mile of road		76.32
Number of tons of Freight carried		50,167
Freight revenue	25,617.19	cents.
Average amount received for each ton		51.06
Freight revenue per mile of road		1,616.22
Earnings from all sources	27,096.95	
Per cent of earnings derived from Lumber Company business to total earnings—all sources		53.44

29 Mansfield Railway & Transportation Company.

Capital Stock		$77,300.00
Total Tonnage for 1909		35,684 Tons
Total Tonnage for 1910		50,167 Tons
Increase		14,483 Tons
Total Tonnage (Lumber) for 1909		27,040 Tons
Total Tonnage (Lumber) for 1910		28,596 Tons
Increase		1,556 Tons
Total Tonnage (Merchandise) for 1909		8,644 Tons
Total Tonnage (Merchandise) for 1910		21,571 Tons
Increase		12,927 Tons

Operating Revenues for Fiscal Year Ending June 30th, 1910.

Freight		$25,617.19
Passenger		1,196.91
Express		12.85
Motor Car Rental		270.00
Total Revenue		$27,096.95
Less—		
Operating Expenses for fiscal year ending 6/30/10	$19,764.06	
Taxes	892.80	
Hire of Equipment	1,038.90	
		21,695.76
Net Income		5,401.19
Cost of Road		$284,171.12
Cost of Equipment		7,842.98
		$292,014.10

Percentage of income for year ending June 30th, 1910, to investment ..... .0185%

Contract with Government for carrying U. S. Mail will net us yearly an amount of $423.60 based on $30.00 per train mile per annum.

30	Freight Earnings	$13,138.42
	Passenger Earnings	810.27
Mail Earnings.....		70.60
Express Earnings.....		7.39
Miscellaneous		129.56
	Total Earnings from 7/1/10 to 12/31/10.....	14,156.24
	Less Operating expenses.....	10,781.70
		$3,374.54

An amount of 6,537.07 is revenue derived from Lumber including both lumber companies and independent shippers.

Pay per diem on all cars belonging to other lines and charge demurrage on cars held over free time.

MANSFIELD, LA., 1/19/11.

File W 314.

Mr. E. A. Frost, President M. R. & T. Co., Shreveport, La.

DEAR SIR: As per your request of the 18th inst. I submit below a statement of Classified Tonnage and Earnings by Commodities of the Mansfield Ry. & Transp'n Company, divided so as to show the tonnage and revenue of this Co. on shipments of the Frost-Johnson Lbr. Co. compared to that of all other shippers, for the fiscal year, ending June 30, 1910.

Commodities.	Total.		Del'd to and rec'd from F. J. Lbr. Co.		All other shippers.	
	Tons.	Revenue.	Tons.	Revenue.	Tons.	Revenue.
Grain	193	$119.63	84	$65.03	109	$54.60
Flour	804	496.80	64	48.52	740	448.28
Other Mill Prod	1,646	613.17	235	180.87	1,411	432.30
Hay	468	276.70	114	99.25	354	177.45
Cotton	961	1,298.60	....	.....	961	1,298.60
Fruits & Veg	123	74.59	....	.....	123	74.59
Other Prod. of Agl	2,113	427.67	....	.....	2,113	427.67
Live Stock	25	14.49	....	.....	25	14.49
Bituminous Coal	2,579	1,548.27	1,724	1,124.25	855	424.02
Coke	164	98.25	....	.....	164	98.25
Stone, Sand & Other Like Articles	129	42.41	....	.....	129	42.41
Other Prod. of Mines	103	61.34	....	.....	103	61.34
Lumber	28,819	13,677.49	25,545	12,497.69	3,274	1,179.80
Other Forest Prod	4,809	369.18	....	.....	4,809	369.18
Sugar	45	27.06	20	14.37	25	12.69
Iron, Pig & Bloom	881	527.44	....	.....	881	527.44
Other Csgs. & Mchy	646	520.32	12	9.85	634	510.47
Cement, Brick & Lime	384	73.23	....	.....	384	73.23

I. & S. DOCKET NO. 11 (TAP-LINE CASE). 25

THIS PAGE BOUND VERTICAL IN BOOK

Commodities.	Total.		Del'd to and rec'd from F. J. Lbr. Co.		All other shippers.	
	Tons.	Revenue.	Tons.	Revenue.	Tons.	Revenue.
Wag'ns, Carr'gs	50	29.76	....	.....	50	29.76
H. H. Goods & Furn	246	154.91	8	7.45	238	147.46
Other Manufact'rs	45	27.14	....	.....	45	27.14
Merchandise	4,334	4,941.11	270	432.57	4,064	4,508.54
Miscellaneous	600	197.63	....	.....	600	197.63
Total	50,167	$25,617.19	28,076	$14,479.85	22,091	$11,137.34

Passenger Revenue	1,196.91	Total No. Consignees (est.)	961
Express Revenue	12.85		
Rental of Track for use of Motor Car	270.00		
Percentage of Lbr. tonnage to total tonnage	57.46%		

Yours truly,

W. S. WOOD,
Sec't'y & Treas.

THIS PAGE BOUND

32 Firms and Individuals who are served by the Mansfield Ry. & Transportation Co. through freight facilities, as designated below:

Mansfield Station:

Bank of Commerce.
Peoples Bank.
Bonds Hotel.
J. C. Baker, Blacksmith.
Misses H. & L. Cale, Milliners.
Greening & Howell, D. Gds.
L. M. Graham, Grocer.
De Soto Jewelry Co.
J. S. & K. Dibool, Grocer.
Enterprise Print'g Co.
The Fair Mercantile Co.
The Farmer " "
Sam Goldblat, D. Gds.
J. W. Guy.
H. Hollingsworth, Livery.
M. Hollingsworth.
M. Hirsch, D. Goods & Mdse.
J. T. Henderson, Grocer.
The Journal Pub. Co.
B. N. Johnson, Grocer.
C. E. Jenkins Co. Ltd., Gen'l Mdse.
S. A. Kidd, D. Gds.
Mansf'ld Hdwe. Co.
B. D. Magee, Grocer.
The Model Co. Ltd., Ladies & Gents.' Furnishing Goods.
Mansf'ld Steam Bakery.
Old Reliable Market.
Pitchford & Ricks, Grocers.
Mansf'l*f* Gin Co.
Jno. T. Ricks, Cafe.
Rouse Racket Store.
J. A. Solomon, Grocer.
S. G. Sample Co. Ltd., Gen'l Mdse.
D. W. Saunders, Gen'l Mdse.
C. K. Sheppard, Furniture Co.
W. F. Town, Druggist.
J. B. Anthony, Grocer.
Wilcox & Wemple, Druggists.
J. B. Williams, Jr., Druggist.
Sydney Willer, D. Goods & Mdse.
Southern Telephone Co.
N. T. Stoma, Grocer.
De Soto Brick Co.
C. J. Brewer, Tinner.
T. A. Rielly.

Oak Hill:

Frost-Johnson Lbr. Co.
Mansf'ld Hardwood Lbr. Co.
" Lumber Yards.
" Ice Co.
Logan Lumber Co.
J. B. Hart, Grocer.
So. Mansf'ld Mercantile Co.
O. C. Wise, Grocer.
J. W. Jumel & Co., Grocers.

Baker Station:

N. P. Baker.
Norris & Kidd, Gen'l Mdse.
F. C. Lenoir.
Gullett Oil Co.

Hunter Station:

Mansfield Logging Co.
D. Derrick, Gen'l Mdse.

Planters residing off track:

J. T. Guy.
Nabors Bros.
W. B. Hewitt.
A. M. Rives.
J. W. Porter.
W. T. & S. A. Pegues.
T. J. Lawrence.
W. H. Harrison, Jr.
Jeff D. Williams.
C. C. Williams.
W. W. Williams.
A. J. Williams.

Mansfield—concluded:

De Soto Fdry. & Mch. Co.
De Soto Cotton Oil Co.
Mansfield Steam Laundry.
" H'dw'd Lbr. Co.

33 Mansfield Ry. & Trans. Co.

Interstate Commerce Commission Docket No. 11, I, & S. Exhibit No. 2. Witness, Frost. Complainants, ——. Date, 1, 26, '11. Defendants, ——. Steno., Philips.
See p. 5127.

THE KANSAS CITY SOUTHERN RAILWAY COMPANY.

TEXARKANA AND FT. SMITH RAILWAY COMPANY.

"Port Arthur Route."

In Connection with Mansfield Tap Line.

Percentage Sheet.

T. & Ft. S. No. 174-A. (Cancels 174.) "Port Arthur Route" No. 84-B.

Naming Basis for Dividing Through Rates Between Kansas City, Mo.; Shreveport, La.; Texarkana, Tex.; St. Louis, Mo.; Memphis, Tenn.; New Orleans, La., and Defined Territories, and Mansfield, La.

(Industries Located on Mansfield Tap Line.)

Issued March 5th, 1902; Effective Dec. 23, 1901.

Arbitraries on—	Mansfield tap line.
Brick	$2.50 per car.
Cotton Seed	1½¢ per 100 lbs.
Cotton Seed Meal and Hulls	$2.50 per car.
Fertilizer	$2.50 per car.
Ice	$3.00 per car.
Lumber	$2.50 per car.
All other carload freight (except Cotton)	3¢ per 100 pounds.
All less than carload freight (except Cotton)	5¢ per 100 pounds.

The above arbitraries will be allowed the Mansfield Tap Line out of published rates between Mansfield, La., and all points.

E. E. SMYTHE,
G. F. A., The K. C. S. Ry., Kansas City, Mo.

CHAS. E. PERKINS,
G. F. A., T & F. S. Ry. Co., Texarkana, Tex.

Authority No. 5689.
K. C. Mo., March 5, 1902.

MANSFIELD, LA., *March* 9, 1911.

File W 314.

Mr. E. A. Frost, President, M. R. & T. Co., Shreveport, La.

DEAR SIR: I submit below a statement of Classified Tonnage, Inbound and Outbound at each station on our line, covering shipments received and forwarded by the Frost-Johnson Lbr. Co., for the Fiscal year ending June 30, 1910.

Commodities.	Grand total. Tons.	Total.		Oak Hill. Total.		Baker. Total.		Burgess. Total.		Hunter. Total.	
		In.	Out.	In.	Out.	In.	Out.	In.	Out.	In.	Out.
Grain	84	84	....	84							
Flour	64	64	....	64							
Other Mill Prod	235	235	....	235							
Hay	114	114	....	114							
Bitum'n's Coal	1,724	1,724	....	1,724							
Lumber	25,545	....	25,545	....	25,545						
S. Sugar	20	20	....	20							
C. Stgs & Mchy	12	12	....	12							
H. H. Gds. & Furn	8	8	....	8							
Merchandise	270	241	29	208	22	1	0	5	0	27	7
Total	28,076	2,502	25,574	2,469	25,567	1	0	5	0	27	7

Yours truly,

W. S. WOOD,
Sec't'y & Treas.

I. & S. DOCKET NO. 11 (TAP-LINE CASE).

35 MANSFIELD RAILWAY & TRANSPORTATION COMPANY.

MANSFIELD, LA., *March* 9, 1911.

File W 314.

Mr. E. A. Frost, President, M. R. & T. Co., Shreveport, La.

DEAR SIR: I submit below a statement of Classified Tonnage, divided so as to show the total tonnage received and forwarded by the Frost-Johnson Lbr. Co. and the total tonnage received and forwarded by all other shippers, for the Fiscal year ending June 30, 1909.

Commodities.	Total tons. Rec'd-For'd.	Frost-Johnson Lbr. Co. Tonnage. Inbound.	Outbound.	All other shippers. Inb'nd.	Outb'nd.
Grain	225	23	....	202	....
Flour	104	22	....	82	....
Other Mill Products	855	358	....	484	13
Hay	212	58	....	154	....
Cotton	856	....	....	....	856
Fruits & Vegetables	56	....	....	....	56
Other Prod. of Agl	696	....	....	425	271
Bituminous Coal	1,999	1,111	....	888	....
Coke	225	....	....	225	....
Stone, Sand & Other Like Articles	61	....	....	61	....
Other Prod. of Mines	78	15	....	63	....
Lumber	27,160	....	26,986	174	....
Other Forest Products	250	..	54	196	....
Petroleum & Other Oils	235	....	....	....	235
Sugar	86	51	....	35	....
Iron, Pig & Bloom	700	....	....	690	10
Iron & Steel Rails	204	204	....	....	....
Other Cstgs. & Mchy	142	56	....	24	62
Cement, Brick & Lime	282	....	....	172	110
Wagons, Carriages & Tools	46	....	....	46	....
H. H. Goods & Furniture	174	....	....	134	40
Other Manufactures	1,038	33	....	580	425
Total	35,684	1,931	27,040	4,635	2,078

Mansfield was the only station on our line until June 15, 1909, at which time this company purchased the 14 miles of road to Hunter, La., which includes the following stations: Oak Hill, Baker, Burgess and Hunter. The above, therefore, represents the tonnage moving between Mansfield and our two connections, The Texas & Pacific Railway and The Kansas City Southern Railway.

Yours truly, W. S. WOOD, *Sec'y & Treas.*

F. J. L. Co.		Other shippers.		Total.	
Inbound	1,931	Inbound	4,635	Inbound	6,566
Outbound	27,040	Outbound	2,078	Outbound	29,118
	28,971		6,713		35,684

(Here follows table, marked page 36.)

Mr. E. A. Frost, President, M. R. & T. Co., Shreveport, La.

DEAR SIR: I submit below a statement of Classified Tonnage, In shippers (except Frost-Johnson Lbr. Co.) for Fiscal year ending J

Commodities.	Grand total. Tons.	In.
Grain	109	10
Flour	740	7
Other Mill Prod	1,411	1,3
Hay	354	3
Cotton	961	
Fruits & Veg.	123	
Other Prod. of Agl	2,113	8
Live Stock	25	
Bituminous Coal	855	8
Coke	164	1
Stone, Sand & Other Like Articles	129	1
Other Prod. of Mines	103	1
Lumber	3,274	3
Other Forest Prod	4,809	4,6
Sugar	25	
Iron, Pig & Bloom	881	8
Other Cstgs & Mchy	634	2
Cement, Brick & Lime	384	
Wag'ns, Carri'gs	50	
H. H. Gds. & Furn	238	1
Other Manufact'rs	45	
Merchandise	4,064	3,8
Miscellaneous	600	
Total (except F. J. L. Co.)	22,091	15,5
Total (F. J. L. Co. Biz.)	28,076	2,5
Grand total	50,167	18,0

Yours truly,

W. S. WOOD,
Sec'y & Treas.

MANSFIELD RAILWAY & TRANSPORTATION COMPANY.

File W 314.

MANSFIELD, LA., *March* 9, 1911.

Shreveport, La.

of Classified Tonnage, Inbound and Outbound at each station on our line, covering shipments received and forwarded by all for Fiscal year ending June 30, 1910.

	Grand total. Tons.	Total. In.	Out.	Mansfield. Total In.	Out.	Oak Hill. Total. In.	Out.	Baker. Total. In.	Out.	Burgess. Total. In.	Out.	Hunter. Total. In.	Out.
....	109	109	....	109	....	....	....	..	..	..	..	..	..
....	740	740	....	740	....	....	....	..	..	..	..	..	..
....	1,411	1,369	42	1,352	42	....	....	..	..	..	..	..	..
....	354	344	10	344	10	....	....	..	..	..	..	17	..
....	961	....	961	....	961	....	....	..	..	..	..	..	..
....	123	44	79	44	79	....	....	..	..	..	..	..	..
....	2,113	824	1,289	824	1,220	....	....	..	69	..	..	..	..
....	25	25	....	25	....	....	....	..	..	..	..	..	..
....	855	855	....	855	....	....	....	..	..	..	..	..	..
....	164	164	....	164	....	....	....	..	..	..	..	..	..
....	129	129	....	129	....	....	....	..	..	..	..	..	..
....	103	103	....	103	....	....	....	..	..	..	..	..	..
....	3,274	373	2,901	373	....	....	2,901	..	..	..	..	..	..
....	4,809	4,659	150	....	....	4,659	....	..	..	..	..	..	150
....	25	25	....	25	....	....	....	..	..	..	..	..	..
....	881	881	....	881	....	....	....	..	..	..	..	..	..
....	634	201	433	111	433	90	....	..	..	..	..	..	..
....	384	73	311	73	311	....	....	..	..	..	..	..	..
....	50	50	....	50	....	....	....	..	..	..	..	..	..
....	238	147	91	137	91	10	....	..	..	..	..	..	..
....	45	45	....	45	....	....	....	..	..	..	..	..	..
....	4,064	3,806	258	3,755	249	18	4	4	1	2	0	27	4
....	600	543	57	523	57	....	....	20	..	..	..	..	..
....	22,091	15,509	6,582	10,662	3,453	4,777	2,905	24	70	2	0	44	154
....	28,076	2,502	25,574	....	....	2,469	25,567	1	..	5	..	27	7
....	50,167	18,011	32,156	10,662	3,453	7,246	28,472	25	70	7	0	71	161

D.
& Treas.

37 Copy.

MANSFIELD RAILWAY & TRANSPORTATION CO.

General Offices.

E. A. Frost, President, Shreveport, La.
F. T. Whited, Vice-President, Shreveport, La.
W. S. Wood, Sec.-Treas., Mansfield, La.
S. H. Dowell, Auditor, Shreveport, La.

MANSFIELD, LOUISIANA, *Feb.* 25, 1909.

A called meeting of the Board of Directors of the Mansfield Railway and Transportation Company was held at its office this day.

Present, C. E. Jenkins, S. G. Sample, E. H. Payne and A. J. Peavy, a majority of the Board and a quorum.

Mr. E. H. Payne offered the following resolution, which after being seconded by Mr. Jenkins was regularly put and unanimously carried.

"Resolved that Seventy Five Thousand Dollars of the supplemental stock provided for in the amendment of the charter relating to that matter be issued and that it be issued to E. A. Frost.

Thereupon Mr. Jenkins offered the following resolution, which after being seconded by Mr. Sample was regularly put and carried unanimously:

"Resolved that the main tram road of the De Soto Land and Lumber Company from Mansfield, De Soto Parish, Louisiana, to Section Twenty One (21), Township eleven (11), Range Fourteen (14), in said Parish of De Soto, Louisiana, with all rights of way, etc., has been purchased by the officers of this company for and in the name of this Company for the consideration of One hundred Twenty-Eight Thousand Dollars (subject to the right of the vendor to use said track for logging purposes free of charge for the period of — years) and for said purchase price the six notes of the Company, Five for $20,000.00 each and one for $20,806.97 with 6 per cent per annum interest from date till paid, have been executed and signed in the name of the company by E. H. Payne, Secretary.

Now, said purchase having been made with the consent of all members of the Board of Directors, the same is formally ratified and made the act of the Company, as is also the act of the Secretary in executing and signing said notes which are hereby recognized and declared to be the valid obligation of the Company ab initio.

And the Secretary of the Company is authorized and directed to accept formal transfer of said property.

Thereupon, said resolutions having been adopted on motion of C. E. Jenkins duly seconded by Mr. Sample, it was moved and carried that the meeting adjourn subject to call.

(Signed) A. J. PEAVY, *Chairman.*

(Signed) E. H. PAYNE, *Secretary.*

38 Copy.

MANSFIELD RAILWAY & TRANSPORTATION CO.

General Offices.

E. A. Frost, President, Shreveport, La.
F. T. Whited, Vice-President, Shreveport, La.
W. S. Wood, Sec.-Treas., Mansfield, La.
S. H. Dowell, Auditor, Shreveport, La.

MANSFIELD, LOUISIANA, *April* 12, 1909.

Meeting of Board of Directors.

The new Board of Directors of the Mansfield Railway and Transportation Company in session in their office in the town of Mansfield, Louisiana.

The meeting being called to order, C. E. Jenkins seconded by E. H. Payne, placed in nomination for President, E. A. Frost, upon vote being taken E. A. Frost was declared elected.

E. H. Payne seconded by C. E. Jenkins placed in nomination for Vice President, A. J. Peavy, upon vote being taken A. J. Peavy was declared elected.

C. E. Jenkins seconded by A. J. Peavy placed in nomination for Secretary & Treasurer, E. H. Payne, upon vote being taken E. H. Payne was declared elected.

Motion of E. H. Payne seconded by A. J. Peavy that we declare a dividend of

Surplus Account	$22,215.62
and of	
Special Surplus Account	$40,584.38
Total	$62,800.00,

and issue stock for same to E. A. Frost, Trustee, to be held in trust by him to secure the notes given by the Mansfield Railway & Transportation Company to the De Soto Land & Lumber Company for purchase price of eight (8) miles of roadway, and Frost-Johnson Lumber Company for purchase price of six (6) miles of Roadway.

Carried.

There being no further business before the Board, meeting adjourned subject to the call of the president.

(Signed) A. J. PEAVY,
Vice-President.

(Signed) E. H. PAYNE, *Secretary.*

1

I. C. C. No 2

Mansfield Railway & Transportation Company

Local Freight Tariff No. 3

APPLYING ON

Classes and Commodities

Between Stations on

Mansfield Railway & Transportation Company

Governed by the Western Classification No. 45, F. O. Becker's I. C. C No. 3 and Southwestern Lines' Classification Exceptions and Rules, Circular No. 1-X, F. A. Leland's I. C. C. No. 546 and Supplements Thereto and Reissues Thereof.

Issued March 12, 1909. **Effective April 19, 1909.**

Railroad Commission of Louisiana Authority No. 5616 of December 8, 1908.

ISSUED BY

E. H. PAYNE
General Freight Agent
Mansfield, La.

39

8—

NOTES.

NOTE NO. 1. Rates will only apply on HAY grown in Louisiana and the carrier reserves the right to require certificate to that effect from shipper.

NOTE NO. 2. Household Goods and Emigrant Movables with or without live stock, between stations in Louisiana. Will not apply on interstate traffic.

In case of loss or damage the carrier's liability shall be limited to $5.00 per hundred pounds on H. H. Goods.

One man shall be allowed to accompany the live stock when shipped, free of charge, to care for same.

The number of live stock to be shipped in one car shall be limited to ten head.

When the shipper instructs the goods to be shipped via the shortest line between any two points in Louisiana, and the carrier on whose line the shipment originates shall fail to so route the shipment, then the shipper shall not be required to pay more for the transportation of the goods than through rate via the shortest route to destination.

NOTE NO. 3 LIVE STOCK—CAR LOADS.

RULES AND REGULATIONS GOVERNING SHIPMENTS OF LIVE STOCK.

Standard Cars are 29 feet to and including 30 feet 6 inches in length, inside measurement.

Rates on Horses or Mules when loaded in larger or smaller cars, will be made as follows, inside measurement:

Cars less than 29 feet, 94 per cent of the Tariff for standard cars.		
Cars over 30½ feet, to and including 32 feet	104	per cent.
Cars over 32 feet, to and including 33½ feet	107	per cent.
Cars over 33⅓ feet, to and including 36½ feet	110	per cent.
Cars over 36½ feet, to and including 38 feet	113	per cent.
Cars over 38 feet, to and including 40 feet	116	per cent.
Cars over 40 feet, to and including 42 feet	125	per cent.
Cars over 42 feet, inside measurement	140	per cent.

ON ALL OTHER LIVE STOCK AS FOLLOWS:

Cars less than 29 feet,	94	per cent.
Cars over 30½ feet, to and including 32 feet,	104	per cent.
Cars over 32 feet, to and including 33⅓ feet,	107	per cent.
Cars over 33⅓ feet, to and including 36 feet,	110	per cent.
Cars over 36 feet, to and including 38 feet,	113	per cent.
Cars over 38 feet, to and including 40 feet,	116	per cent.
Cars over 40 feet, inside measurement	125	per cent.

1. **The released rates on Live Stock named in this Tariff will apply only when shippers execute the usual Live Stock contract of the form furnished by this Company, and when the animals are released to not exceed the following declared valuations:**

Each Horse or Pony (gelding, mare or stallion), Mule or Jack	$75.00
Each Ox or Bull	30.00
Each Cow	20.00
Each Calf	6.00
Each Hog	6.00
Each Sheep or Goat	3.00

When the declared value exceeds the above, an addition of 25 per cent will be made to the rate for each 100 per cent or fraction thereof of additional declared valuation per head, such rate not to exceed the not released rates shown herein; animals exceeding in value $800.00 per head will be taken only by special arrangement.

On shipments of Live Stock made without limitation of carrier's liability at common law, this Company will charge 150 per cent of rates published herein. Under this rule shippers will have the choice of executing and accepting contracts for shipments of Live Stock with or without limitation of liability, the rates to be made as provided herein.

2. **Sheep in Double Deck or Tiered Cars.**—To or from stations, Sulphur Springs, Ark., and south, the rate on Sheep in double deck or tiered cars will be 125 per cent of the Cattle rate, except as otherwise shown in Tariff.

3. **Live Stock in Mixed Car Loads.**—The rate on mixed car loads of Live Stock will be the highest rate for any grade of stock in the car, and subject to authorized percentages for cars of different lengths.

NOTE NO. 4. The following weights are established to be used in ascertaining the rates on LIVE STOCK in less than car load quantities.

One Gelding, Mare, Pony, Mule, Cow or Cow and Calf	1,000 pounds.
Burros	750 pounds.
Stallions, Jacks, Bulls	1,500 pounds.
Calves, Sheep, Goats, each, in lots of five or more	100 pounds.
When in lots of less than five each	175 pounds.
Lambs, each, in lots of less than five	100 pounds.
When in lots of more than five	75 pounds.
Hogs for market, actual weight or estimated at	250 pounds.
Pigs and Stock Hogs	Actual Weight.
Sheep, for market	100 pounds.
Yearling Colts and Cattle	1,000 pounds.
Crated or boxed	Actual Weight.

3

NOTES—Continued.

NOTE NO. 8.—Rates shown in Tariff applying on Lumber, will apply on the following: Lumber (except Walnut, Cherry, Butternut, Holly and imported woods), also on Lumber creosoted or otherwise chemically treated, and the following articles when manufactured from woods other than Walnut, Cherry, Butternut, Holly and imported woods, in straight or mixed carloads, minimum weight 30,000 pounds per car:

Agricultural Implements, Sleigh and Vehicle Wood, in the rough, not further finished than rough sawed, rived or split from the bolt.
Base Boards.
Bed Slats.
Billets, wood.
Blocks, Corner, Base Head and Plinth.
Box Lumber or Shooks, including Scarfed Berry Box Material, in bundles or racks.
Carpenters' Mouldings.
Casing.
Ceiling.
Combined Lath and Sheathing.
Fence Posts.
Flooring (except wood carpet.)
Grain Doors.
Guttering, rough.
Handle Timber, sawed square, rived or split from the bolt, not further finished.
Hoop Poles.
Lath.
Logs (also walnut logs not squared).
Paving Blocks.
Pickets.
Piling.
Sawdust.
Shavings.
Shingles.
Spools (for barbed wire), knocked down.
Staves, Heading and Hoops.
Tank Material, sawed to shape, racked.
Telegraph and Telephone Poles.
Telegraph and Telephone Cross Arms, Pins, Brackets and Braces.
Ties (Yellow Pine).
Wainscoting.
Well Tubing.

Wherever a commodity rate is established it removes the application of Class rates between the same points on that commodity.

CLASS RATES
IN CENTS PER HUNDRED POUNDS.

Item No.	DISTANCES.	CLASSES.									
		1	2	3	4	5	A	B	C	D	E
1	5 Miles and under	20	18	17	16	14	14	12	11	10	9
	10 Miles and over 5	21	19	18	17	14	14	12	11	10	9
	15 Miles and over 10	23	21	20	19	16	16	13	12	11	10
	20 Miles and over 15	26	24	23	22	19	19	16	14	11	10
	25 Miles and over 20	28	26	25	24	21	21	18	16	14	10

COMMODITY RATES.

	COMMODITIES. Rates in Cents per Hundred Pounds, Except as Noted.	5 Miles and under.	10 Miles and over 5.	15 Miles and over 10.	20 Miles and over 15.	25 Miles and over 20.
2	Agricultural Implements, Binders Twine, and Wagons, straight or mixed carloads, minimum weight 20,000 lbs.	7	10	11	12	12
3	Brick, carloads, minimum weight 30,000 lbs.	3	4	5	5	6
4	Coal and Coke, minimum weight 30,000 lbs.	3	4	5	5	6
5	Corn, carload, minimum weight 24,000 lbs. Corn rates will apply on Rye, Oats, Barley, Cornmeal, Bran, Grain Screenings, Brewers Grits, Sorghum Seed and Mill Stuffs, Hominy, Hominy Feed, Grits, Brewers Meal Melons	5	6	7	8	8
6	Cotton Seed, in sacks, for planting purposes	8	9	12	14	16
7	Cotton Seed Meal, Cotton Seed Cake, Cotton Seed Hulls, straight or mixed carloads, minimum weight 24,000 pounds	5	5	6	6	7
8	Fertilizer, less than carloads, in lots of 2,000 pounds or more	10	14	16	16	18
9	Hay, (Native Grown. See note 1) carloads, minimum weights, viz: Cars 34 feet and less, 17,000; cars over 34 feet, 20,000	5	5	5½	5½	6
10	Hay, carloads, other than Native Grown, that is grown in Louisiana, minimum weights: Cars 34 feet and less, 17,000; cars over 34 feet, 20,000 pounds	5	6	7	8	8

(Continued on Page 4.)

4

COMMODITY RATES—Continued.

Item No.	COMMODITIES. Rates in Cents per Hundred Pounds, Except as Noted.	5 Miles and under.	10 Miles and over 5.	15 Miles and over 10.	20 Miles and over 15.	25 Miles and over 20
11	Household Goods (see note 2) rates per car	$15.00	$15.00	$20.00	$20.00	$20.00
12	Ice, carloads	4.4	4.4	4.4	4.4	4.5
13	Ice, less than carloads	10	10	10	10	15
14	Junk, carloads, minimum weight 30,000 pounds, consisting of Bones, in sacks or barrels; Brass, scrap in boxes, barrels or kegs; Copper, scrap in boxes, barrels or kegs; Glass broken, in boxes or barrels; Hoofs, Horns and Horn Pith, packed; Iron, scrap; Paper, scrap; Rags; Rope, old	6	6	6	6½	7
15	Lime, Cement, Plaster, carloads, minimum weight 24,000 pounds	5	6	7	8	9
16	Live Stock, carloads, rate per car, viz:					
	Horses and Mules	$10.00	$10.00	$11.00	$12.00	$13.00
	Cattle	9.00	10.00	10.00	10.00	10.00
	Sheep and Hogs	8.00	9.00	10.00	10.00	10.00
	See note 3.					
17	Live Stock, less than carloads (See note 4)	30	30	30	30	32
18	Lumber, carloads, minimum weight 30,000 pounds (See note 5)	5	6	7	8	9
19	Oil, fuel, in tank cars, carloads	6	6	6	6	6
20	Salt, carloads, minimum weight 30,000 pounds	5	5	6	7	8
21	Sand, Gravel, Clay and Stone, straight or mixed carloads, minimum weight 24,000 pounds	3	4	5	5	6
22	Sawdust and Shavings, straight or mixed carloads, minimum weight 24,000 pounds	3	3½	4	4	4½
23	Wheat, carloads, 24,000 pounds. Wheat rates will apply on Wheat, Flour, Rolled Wheat, Cracked Wheat and Crushed Wheat, Oat Meal, Rolled Oats, Oat Groats	6	7	8	8	9
24	Wood, carloads, rate per cord, minimum weight.					
	Cars 36 feet and under, 12 cords					
	Cars 40 feet and over 36 feet, 14 cords	$1.00	$1.00	$1.00	$1.00	$1.00

No supplement to this tariff will be issued except for the purpose of cancelling the tariff.

I. C. C. No. 5
Cancels I. C. C. No. 1
(In lieu of I. C. C. No. 4 Rejected by Commission)

MANSFIELD RAILWAY & TRANSPORTATION COMPANY

SWITCHING TARIFF No. 4-B

CANCELS

SWITCHING TARIFF No. 4

AND

FREIGHT TARIFF No. 2

APPLYING BETWEEN

MANSFIELD JUNCTION, LA.

AND

MANSFIELD, LA.

AND

OAK HILL, LA.

When destined to or originating at points to and from which no through rates are published.

Issued August 9th, 1910. Effective September 15th, 1910.

Railroad Commission of Louisiana Authority No. 6720 of February 24, 1910.

Between	And	On	Rates.
Mansfield, La.	Mansfield Junction, La.	Brick, carloads	$2.50 per car.
		Cotton Seed, carloads	$2.50 per car.
		Cotton Seed Hulls and Meal, carloads	$2.50 per car.
		Fertilizer, carloads	$2.50 per car.
		Ice, carloads	$3.00 per car.
		Lumber, Lath, Shingles and Ties, carloads	$2.50 per car.
		All other carload freight, minimum weight 20,000 pounds	3 cents per 100 pounds.
		All less than carload freight	5 cents per 100 pounds.
Between	**And**	**On**	**Rates.**
Mansfield Junction, La.	Oak Hill, La.	Logs	$1.00 per car.
		Lumber	$2.50 per car.
Between	**And**	**On**	**Rates.**
Mansfield, La.	Oak Hill, La.	All carload freight	$2.50 per car.

W. S. WOOD,
General Freight Agent.

Mansfield, La., August 9th, 1910. File 40.

Mansfield Railway & Transportation Co.

Switching Tariff No. 4-C

CANCELS

Switching Tariff No. 4-B

APPLYING BETWEEN

Mansfield Junction, La.

AND

Mansfield, La.

AND

Oak Hill, La.

When destined to or originating at points in Louisiana to and from which no through rates are published

Issued August 24th, 1910. **Effective August 22nd, 1910.**

Railroad Commission of Louisiana Authority No. 6720 of February 24, 1910, and Amendment No. 1 of August 22, 1910.

Between	And	On	Rates.
Mansfield, La.	Mansfield Junction, La.	Brick, carloads	$2.50 per car.
		Cotton Seed, carloads	$2.50 per car.
		Cotton Seed Hulls and Meal, carloads	$2.50 per car.
		Fertilizer, carloads	$2.50 per car.
		Ice, carloads	$3.00 per car.
		Lumber, Lath, Shingles and Ties, carloads	$2.50 per car.
		All other carload freight, minimum weight 20,000 pounds	4 cents per 100 pounds.
		All less than carload freight	5 cents per 100 pounds.

Between	And	On	Rates.
Mansfield Junction, La.	Oak Hill, La.	Logs	$1.00 per car.
		Lumber	$2.50 per car.

Between	And	On	Rates.
Mansfield, La.	Oak Hill, La.	All carload freight	$2.50 per car.

ISSUED BY

W. S. WOOD,

GENERAL FREIGHT AGENT.

Mansfield, La., August 24th, 1910. File 40.

Only one Supplement to this Index will be in effect at any time.

Freight I. C. C. No. 17.
Cancels Freight I. C. C. No. 14.
Passenger I. C. C. No. 4.
Cancels Passenger I. C. C. No. 3.

Shreveport, Alexandria & Southwestern Railway System.

OPERATING

SIBLEY, LAKE BISTENEAU & SOUTHERN RAILWAY.
WOODWORTH & LOUISIANA CENTRAL RAILWAY.
LOUISIANA & PACIFIC RAILWAY.

CIRCULAR No. 9-A.

(Cancels Circular No. 9.)

INDEX

OF

FREIGHT AND PASSENGER TARIFFS, CLASSIFICATIONS, CLASSIFICATION EXCEPTIONS AND CIRCULARS

APPLYING FROM AND TO STATIONS ON LINES NAMED ABOVE.

THIS INDEX CONTAINS LISTS OF TARIFF PUBLICATIONS IN EFFECT ON OCTOBER 20, 1909.

ISSUED OCTOBER 20, 1909.

Issued by
R. S. DAVIS,
Traffic Manager.
Kansas City, Mo.

Authority No. 192.

T.-D. Pfg. Co.—500.

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EXPLANATION OF ABBREVIATIONS.

Initials.	Name in Full.	Initials.	Name in Full.
A. & V.	Alabama & Vicksburg Ry.	M. K. & T.	Missouri, Kansas & Texas Ry.
A. T. & S. F.	Atchison, Topeka & Santa Fe Ry.	M. K. & T. of T.	Missouri, Kansas & Texas Ry. of Texas.
A. C. L.	Atlantic Coast Line R. R.	M. O. & G.	Missouri, Oklahoma & Gulf Ry.
B. & O.	Baltimore & Ohio R. R.	Mo. P.	Missouri Pacific Ry.
B. S. L. & W.	Beaumont, Sour Lake & Western Ry.	M. L. & T.	Morgan's Louisiana & Texas R. R. & S. S. Co.
C. & O.	Chesapeake & Ohio Ry.	N. C. & St. L.	Nashville, Chattanooga & St. Louis Ry.
C. P. S. G. Ry.	Chester, Perryville & Ste. Genevieve Ry.	N. O. & N. E.	New Orleans & Northeastern R. R.
C. & A.	Chicago & Alton R. R.	N. & W.	Norfolk & Western Ry.
C. & N. W.	Chicago & Northwestern Ry.	N. P.	Northern Pacific Ry.
C. B. & Q.	Chicago, Burlington & Quincy R. R.	O. & N. W.	Orange & Northwestern R. R.
C. & E. I.	Chicago and Eastern Illinois R. R.	P. & G. S. S. Co.	Philadelphia & Gulf Steamship Co.
C. R. I. & P.	Chicago, Rock Island & Pacific Ry.	St. J. & C. I.	St. Joseph & Grand Island Ry.
C. M. & P. S.	Chicago, Milwaukee & Puget Sound Ry.	St. L. & S. F.	St. Louis & San Francisco R. R.
C. N. O. & T. P.	Cincinnati, New Orleans & Texas Pacific Ry.	St. L. B. & M.	St. Louis, Brownsville & Mexico Ry.
C. & S.	Colorado & Southern Ry.	St. L. E. R. & W.	St. Louis, El Reno & Western Ry.
C. & S. E.	Colorado & Southeastern Ry.	St. L. I. M. & S.	St. Louis, Iron Mountain & Southern Ry.
C. S. N. O. & P.	Colorado Southern, New Orleans & Pacific R. R.	St. L. K. C. & C.	St. Louis Kansas City & Colorado R. R.
D. & R. G.	Denver & Rio Grande R. R.	St. L. S. W.	St. Louis Southwestern Ry.
F. S. & W.	Fort Smith & Western R. R.	St. L. W. & G.	St. Louis, Watkins and Gulf Ry.
G. H. & S. A.	Galveston, Harrisburg & San Antonio Ry.	S. P. L. A. & S. L.	San Pedro, Los Angeles & Salt Lake R. R.
I. C.	Illinois Central R. R.	S. A. L.	Seaboard Air Line Ry.
K. C. M. & O.	Kansas City, Mexico & Orient Ry.	S. A. & S. W.	Shreveport, Alexandria & Southwestern System.
K. C. S.	Kansas City Southern Ry.	Sou.	Southern Ry.
K. S. & G.	Kansas, Southern & Gulf R. R.	S. P.	Southern Pacific System.
L. C. & N.	Lake Charles & Northern R. R.	T. C.	Tennessee Central R. R.
L. & A.	Louisiana & Arkansas Ry.	T. & N. O.	Texas and New Orleans R. R.
L. & P.	Louisiana & Pacific Ry.	T. & P.	Texas & Pacific Ry.
L. & N.	Louisville & Nashville R. R.	U. P.	Union Pacific R. R.
L. R. & N.	Louisiana Railway & Navigation Co.	V. S. & P.	Vicksburg, Shreveport & Pacific Ry.
L. W.	Louisiana Western R. R.	W. & L. C.	Woodworth & Louisiana Central Ry.
M. V.	Midland Valley R. R.		
M. R. & B. T.	Mississippi River & Bonne Terre Ry.		

NAMES AND ADDRESSES OF AGENTS ISSUING TARIFFS, ETC.

Agent.	Address.	Agent.	Address.
F. O. Becker	Great Northern Bldg., Chicago, Ill.	G. S. Maxwell	Century Bldg., St. Louis, Mo.
R. H. Countiss	149 Railway Exchange, Chicago, Ill.	T. H. Noonan	Cincinnati, Ohio.
W. R. Crow	Railway Exchange, Chicago, Ill.	T. W. Parker	Frisco Bldg., St. Louis, Mo.
F. H. Davis	Brisbane Bldg., Buffalo, N. Y.	W. A. Poteet	Kansas City, Mo.
W. H. Fitzgerald	Richmond, Va.	John D. Potts	Richmond, Va.
I. W. Gantt	Toledo, Ohio.	Jos. Richardson	Equitable Bldg., Atlanta, Ga.
J. P. Gay	Detroit, Mich.	W. J. Seligman	271 Broadway, New York City.
C. J. Haigh	Buffalo, N. Y.	L. M. Sentes	231 La Salle St., Chicago, Ill.
A. D. Hall	Wright Bldg., St. Louis, Mo.	M. P. Washburn	U. S. Trust Bldg., Louisville, Ky.
D. T. Lawrence	Boston, Mass.	W. F. Wilgus	Buffalo, N. Y.
F. A. Leland	Century Bldg., St. Louis, Mo.		

FIRST SECTION.

LIST OF ALL FREIGHT TARIFFS AS TO WHICH THESE COMPANIES ARE INITIAL CARRIERS.

SPECIFIC COMMODITIES.

I. C. C. No.	S. A. & S.W.No.	Index No.	Issued by	Issuing Road or Agt.'s No.	Applies on	From	To
....	168	1	S. A. & S. W.	....	Brick, Fire and Fire Clay	De Ridder, La.	Longville, La.
2374	165-A	2	K. C. S.	30-A	Cantaloupes and Muskmelons	L. & P. stations	Northern and Western States.
....	28	3	L. & A.	472	Cotton	S. L. B. & S. stations	Minden, La.
537	186	4	L. & A.	960	Cotton	S. L. B. & S. stations	New Orleans, La.
2430	178-C	5	V. S. & P.	976-C	Cotton	S. L. B. & S. stations	New Orleans, La., etc.
2385	33-A	6	V. S. & P.	975-A	Cotton	S. L. B. & S. stations	Shreveport, La.
....	300	7	S. A. & S. W.	....	Cotton Seed	S. L. B. & S. stations	Ringgold, La.
600	278	8	F. A. Leland	12-I	Cotton Seed and Cotton Seed Products	Arkansas, Louisiana, etc	Texas points.
3940	221	9	C. N. O. & T. P.	R-1816	Cotton Seed Oil and Products	S. L. B. & S. stations	Eastern, Northern and Western points.
T	195	10	F. A. Leland	56	Cotton Seed Oil and Products	S. L. B. & S. stations	Eastern, Northern and Western points.
605	147-L	11	F. A. Leland	12-L	Fruits and Vegetables	Louisiana points	Eastern, Northern, Southern and Western points.
....	188	12	S. A. & S. W.	....	Hay (native grown)	Louisiana points	Louisiana points.
....	297	13	S. A. & S. W.	....	Hay	Ashton, La.	Alexandria, La.
....	161	14	M. L. & T.	330	Lumber	Woodworth, La.	Alexandria, La.
253	251	15	St. L. W. & G.	153	Lumber	W. & L. C. stations	Alexandria, La.
....	62	16	T. & P.	5953-P	Lumber	Woodworth, La.	Alexandria, La.
3874	67	17	Mo. Pac.	5643	Lumber	L. & P. and W. & L. C. stations	Cape Girardeau and points on C. P. & S. C. Ry.
3472	268-A	18	C. & E. I.	2300-A	Lumber	L. & P., S. L. B. & S. and W. & L. C. stations	Central Freight Ass'n Territory and Eastern points.
7753	80	19	Mo. Pac.	5426	Lumber	L. & P. and W. & L. C. stations	C. & N. W. stations in Nebr. and S. Dak.
A-2103	120	20	M. K. & T.	2975	Lumber	S. L. B. & S. and W. & L. C. stations	Colo., Kas., Mo., Nebr. and Wyoming.
708	151-F	21	G. H. & S. A.	73-F	Lumber	L. & P. and W. & L. C. stations	Colo., Kas., Mo., Nebr., etc.
5120	124-A	22	St. L. & S. F.	904-A	Lumber	S. L. B. & S. stations	Colo., Ia., Kas., Mo., Nebr., etc.
1574	115-A	23	V. S. & P.	406-A	Lumber	S. L. B. & S. stations	Colo., Kas., Nebr., etc.
20	201	24	C. S. N. O. & P.	217	Lumber	L. & P. stations	C. S. N. O. & P., S. S. L. & W. and O. & N. W. stations.
4	218	25	C. S. N. O. & P.	102	Lumber	L. & P. stations	Eagle Pass, El Paso and Laredo for export.
2454-B	126-D	26	M. L. & T.	318-D	Lumber	L. & P. and W. & L. C. stations	Eastern, Northern and Western states.
9265	121	27	Sou.	W.L.Tar. 1	Lumber	S. L. B. & S. stations	Eastern and Northern states.
[illegible]	233	28	St. L. S. W.	4735	Lumber	S. L. B. & S. stations	Eastern and Northern states.
[illegible]	116-A	29	V. S. & P.	628-A	Lumber	S. L. B. & S. stations	Galveston, Tex.
2422-B	275	30	L. W.	357-P	Lumber	L. & P. stations	Ill., Ia., Mich., Minn., Mo. and Wis.
1945	84-B	31	K. C. S.	1671-B	Lumber	L. & P. stations	Ill., Ia., Kas., Mich., Mo., etc.
A-2627	118	32	M. K. & T.	2410	Lumber	S. L. B. & S. stations	Ia., Minn., Mo., N. & S. Dak., Wis.
9424	72-A	33	Mo. P.	4906-A	Lumber	L. & P., S. L. B. & S. and W. & L. C. stations	Ia., Minn., Mo., N. & S. Dak. and Wis.
5313	125-C	34	St. L. & S. F.	546 C	Lumber	L. & P. and S. L. B. & S. stations	Ia. Minn. and Mo.
2831	149	35	St. L. S. W.	5164	Lumber	S. L. B. & S. stations	Ia. Minn. and Mo.
1893	206-A	36	V. S. & P.	741-A	Lumber	S. L. B. & S. stations	Ia. Minn. and Mo.
2592	250	37	K. C. S.	19-A	Lumber	L. & P. stations	Ind., Mich., New York, etc.
587	267	38	F. A. Leland	59	Lumber	L. & P., S. L. B. & S. and W. & L. C. stations	Kas., Mo., Colo., Ariz., etc.
....	127	39	S. A. & S. W.	....	Lumber	De Ridder and Bon Ami, La.	Longville, La.
....	179	40	M. L. & T.	348	Lumber	L. & P. and W. & L. C. stations	Louisiana points on M. L. & T. and L. W.
2463	105	41	St. L. S. W.	4751	Lumber	S. L. B. & S. stations	Memphis, Tenn.
578	113-I	42	G. H. & S. A.	58-I	Lumber	L. & P. and W. & L. C. stations	Mexican points.

THIS PAGE IS VERTICAL

LIST OF ALL FREIGHT TARIFFS AS TO WHICH THESE COMPANIES ARE INITIAL CARRIERS—Continued.

FIRST SECTION—Continued. SPECIFIC COMMODITIES.

I. C. C. No.	S. A. & S.W.No.	Index No.	Issued by	Issuing Road or Agt.'s No.	Applies on	From	To
1956	52-B	43	K. C. S.	1745-B	Lumber	L. & P. and S. L. B. & S. stations	Mid. Valley and M. O. & G. stations.
2386	268	44	St. L. & S. W.	5375	Lumber	S. L. B. & S. stations	Mo., Ark., Ia., Minn. and So. Dakota.
2129	87-B	45	K. C. S.	1772-B	Lumber	L. & P. stations	Missouri points on St. L. K. C. & C.
7916	66	46	Mo. P.	5467	Lumber	L. & P. and W. & L. C. stations	Missouri points on M. R. & B. T. Ry.
1478	86	47	K. C. S.	1725	Lumber	L. & P. stations	Mo. P. stations.
6228	75	48	Mo. P.	5116	Lumber	L. & P., S. L. B. & S. and W. & L. C. stations	Mo. P. and D. & R. G. stations.
A-967	277	49	Mo. Pac.	1502	Lumber	L. & P., S. L. B. & S. and W. & L. C. stations.	Milwaukee, and Racine, Wis.
583	187	50	L. & A.	1048	Lumber	S. L. B. & S. stations	New Orleans, La., etc.
1742-B	111-A	51	M. L. & T.	334-A	Lumber	L. & P., S. L. B. & S. and W. & L. C. stations	New Orleans, La., etc.
1718	154-A	52	T. & P.	34-A	Lumber	W. & L. C. stations	New Orleans, La.
2222	59-A	53	V. S. & P.	1089-A	Lumber	S. L. B. & S. stations	New Orleans, La.
2	279	54	T. & N. O.	176-E	Lumber	L. & P. and W. & L. C. stations	Northern and Eastern points.
C-8430	243	55	C. P. I. & P.	24000-B	Lumber	L. & P. and W. & L. C. stations	Northern, Southern and Western states.
2444-B	270	56	M. L. & T.	315-B	Lumber	L. & P. and W. & L. C. stations	New York, Penn. and New Jersey.
629	197-B	57	F. A. Leland	48-E	Lumber	L. & P., S. L. B. & S. and W. & L. C. stations	Oklahoma points.
2314	50	58	K. C. S.	53	Lumber	L. & P. stations	Port Arthur for export.
2616	64-B	59	K. C. S.	1931-B	Lumber	S. L. B. & S. stations	Port Arthur for export.
2612	235-D	60	K. C. S.	1623-E	Lumber	W. & L. C. stations	Port Arthur for export.
2602	225-B	61	V. S. & P.	1181-B	Lumber	S. L. B. & S. stations	Port Arthur for export.
8056	82	62	Mo. P.	5497	Lumber	L. & P. and W. & L. C. stations	Ste. Genevieve and Mosher, Mo.
8440	43	63	Mo. P.	5546	Lumber	L. & P. and W. & L. C. stations	St. J. & G. I. stations.
1610	49-C	64	K. C. S.	1117-C	Lumber	L. & P. stations	St. Louis, Alton, etc., (via M. K. & T.)
2084	236-E	65	K. C. S.	1250-E	Lumber	L. & P. stations	St. Louis, Carondelet, etc. (via St. L. I. M. & S.)
2858	104	66	St. L. & S. W.	5373	Lumber	S. L. B. & S. stations	St. Louis, Cairo, Thebes, etc.
1705-B	204	67	Mo. Pac.	821-A	Lumber	W. & L. C. stations	St. Louis, Cairo, Thebes, etc.
2079	238-H	68	K. C. S.	1890-H	Lumber	L. & P. stations	St. Louis, Cairo, Thebes, etc.
A-2525	119	69	M. K. & T.	3370	Lumber	S. L. B. & S. stations	St. Louis, Alton, etc.
A-971	71	70	Mo. Pac.	1110-A	Lumber	L. & P., S. L. B. & S. and W. & L. C. stations	St. Louis, Cairo, Memphis, etc.
5413	122-C	71	St. L. & S. F.	200-C	Lumber	S. L. B. & S. stations	St. Louis, Memphis, Thebes, etc.
1723	39-C	72	K. C. S.	1546-C	Lumber	L. & P. and S. L. B. & S. stations	St. L. & S. F. for K. C. M. & O., K. C. C. & S. stations.
3166	76	73	Mo. P.	5592	Lumber	L. & P., S. L. B. & S. and W. & L. C. stations	St. L. & S. F. stations.
....	274	74	K. C. S.	2227-B	Lumber	L. & P. stations	Shreveport, La.
....	276	75	St. L. W. & G.	151	Lumber	W. & L. C. stations	Shreveport, La.
2	212	76	C. S. N. O. & P.	100	Lumber	L. & P. stations	Texas points.
48	214-A	77	C. R. I. & P.	11135-A	Lumber	L. & P., S. L. B. & S. and W. & L. C. stations	Texas points.
1819	227-A	78	K. C. S.	1417-A	Lumber	L. & P. stations	Texas and New Mex. points.
524	164	79	L. & A.	960	Lumber	S. L. B. & S. stations	Texas points on So. Pac.
B-164	117	80	M. K. & T. of T.	1006	Lumber	L. & P., S. L. B. & S. and W. & L. C. stations	Texas points.
2025-B	224	81	M. L. & T.	335	Lumber	L. & P. stations	Texas points.
551	115-H	82	G. H. & S. A.	28-H	Lumber	L. & P., S. L. B. & S. and W. & L. C. stations	Texas points.
60	232	83	St. L. B. & M.	60	Lumber	W. & L. C. and L. & P. stations	Texas points on St. L. B. & M.
3970	123	84	St. L. & S. F.	599	Lumber	S. L. B. & S. stations	Texas, New Mex. and Okla. points.

AGE BOUND
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LIST OF ALL FREIGHT TARIFFS AS TO WHICH THESE COMPANIES ARE INITIAL CARRIERS—Continued.

FIRST SECTION—Continued.

SPECIFIC COMMODITIES.

I. C. C. No.	S. A. & S.W.No.	Index No.	Issued by	Issuing Road or Agt.'s No.	Applies on	From	To
2796	167	85	St. L. S. W.	2096	Lumber	S. L. B. & S. stations	Texas and New Mex. points.
2822	50	86	St. L. S. W.	5176	Lumber	S. L. B. & S. stations	Texas points on St. L. S. W. Ry. of Texas.
1266	103-A	87	T. & P.	10234-H	Lumber	L. & P., S. L. B. & S. and W. & L. C. stations	Texas points.
2464	138-A	88	V. S. & P.	1275-A	Lumber		
2590	272	89	K. C. S.	2216	Lumber	S. L. B. & S. stations	Texas points.
1542	40	90	V. S. & P.	376-A	Lumber	L. & P. stations	Vicksburg, Miss.
10	160	91	S. A. & S. W.	....	Potatoes	S. L. B. & S. stations	V. S. & P. stations.
2535	152-B	92	K. C. S.	29-B	Potatoes and Vegetables	Ashton, La.	Lamorie, La.
A-479	256	93	Mo. P.	720	Potatoes and Vegetables	L. & P. stations	Northern and Western States.
2359	234-B	94	K. C. S.	9-B	Refrigeration Charges	S. L. B. & S. stations	Northern and Western States.
542	43	95	F. A. Leland	66	Rice and Rice Products	L. & P. stations	Various Interstate Points.
8	6	96	S. A. & S. W.	....	Rosin and Turpentine	L. & P. stations	Various Interstate Points.
2525	176-F	97	K. C. S.	1958-F	Rosin and Turpentine	Bundick, La.	DeRidder, La.
2418-B	227-C	98	M. L. & T.	1166-C	Rosin and Turpentine	L. & P. stations	New York, N. Y.
....	211	99	T. & P.	J.B.535-A	Sugar Cane	Ashton, La.	New York, N. Y.
....	182	100	S. A. & S. W.	....	Sugar Cane	Ashton, La.	Cinclare, La.
1017	153	101	K. C. S.	1185-A	Watermelons	L. & P. stations	Lamorie, La.

GENERAL COMMODITIES.

....	259	102	K. C. S.	178	Commodities	L. & P. stations	K. C. S. stations.
....	298-A	103	S. A. & S. W.	....	Commodities	Ashton, La.	Lamorie, La.
2450-B	262-A	104	M. L. & T.	627-A	Commodities	L. & P. stations	Shreveport, La.

CLASSES AND COMMODITIES.

....	65	105	L. & A.	804	Classes and Commodities	S. L. B. & S. stations	Alexandria, La.
....	191-A	106	C. R. I. & P.	25565-A	Classes and Commodities	W. & L. C. stations	Alexandria, La.
623	255-C	107	F. A. Leland	45-C	Classes and Commodities	L. & P., S. L. B. & S. and W. & L. C. stations	Arkansas and Oklahoma Points
865	284	108	R. H. Counties	1-H	Classes and Commodities	L. & P. stations	California Terminals.
5	24	109	F. A. Leland	3	Classes and Commodities	L. & P., S. L. B. & S. and W. & L. C. stations	Defined Territories
266	285	110	W. A. Forest	1[illegible]	Classes and Commodities	L. & P. stations	Denver, Colo. Springs, etc.
614	249	111	F. A. Leland	1[illegible]	Classes and Commodities	L. & P. and W. & L. C. stations	Eagle Pass, El Paso and Laredo, Tex.
612	206-G	112	F. A. Leland	1[illegible]	Classes and Commodities	L. & P. stations	Houston, Galveston, Tex., etc.
626	248	113	F. A. Leland	2 Z	Classes and Commodities	Defined Territories	Houston, Galveston, Tex., etc.
....	271-A	114	S. A. & S. W.	....	Classes and Commodities	Lake Charles, La.	L. & P. stations.
4	1	115	S. A. & S. W.	....	Classes and Commodities	Louisiana points.	Louisiana Points (Distance Tariff).
607	250	116	F. A. Leland	6[illegible]	Classes and Commodities	L. & P. and W. & L. C. stations	Mexican points.
....	11	117	L. & A.	432	Classes and Commodities	S. L. B. & S. stations	Minden, La.
2426-B	257-C	118	M. L. & T.	569-C	Classes and Commodities	L. & P. stations	New Orleans, La.
2172	144	119	K. C. S.	2044	Classes and Commodities	L. & P. stations	New Orleans, Vicksburg, etc.
A 170	146	120	T. & P.	1215	Classes and Commodities	S. L. B. & S. stations	New Orleans, La.
....	226-A	121	L. & A.	365-A	Classes and Commodities	S. L. B. & S. stations	New Orleans, La.
2136-B	22-A	122	M. L. & T.	447-A	Classes and Commodities	S. L. B. & S. stations	New Orleans, La.
1851	3-B	122	V. S. & P.	521-B	Classes and Commodities	S. L. B. & S. stations	New Orleans and points on N. O. & N. E. and A. & V.
22	180	124	C. S. S. & S. P.	249	Classes and Commodities	Woodworth, La.	New Orleans, La.
....	193	125	I. R. & N.	1260	Classes and Commodities	Woodworth, La.	New Orleans, La.
....	116-A	126	M. L. & T.	468-A	Classes and Commodities	Woodworth, La.	New Orleans, La.
1619	69	127	T. & P.	J.B.3959-H	Classes and Commodities	W. & L. C. stations	New Orleans, La.
490	206	128	R. H. Counties	4-K	Classes and Commodities	L. & I. stations	North Pacific Coast Terminals.

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LIST OF ALL FREIGHT TARIFFS AS TO WHICH THESE COMPANIES ARE INITIAL CARRIERS—Concluded.

FIRST SECTION—Continued. CLASSES AND COMMODITIES.

I. C. C. No.	S. A. & S. W. No.	Index No.	Issued by	Issuing Road or Agt.'s No.	Applies on	From	To
8	293	129	C. M. & P. S.	126-A	Classes and Commodities	L. & P. stations	Seattle and Tacoma, Wash.
2380	30-C	130	V. S. & P.	206-C	Classes and Commodities	S. L. B. & S. stations	Shreveport and Monroe, La.
9	492	131	L. R. & N.	1259	Classes and Commodities	Woodworth, La.	Shreveport, La.
1542	26-A	132	T. & P.	J.B.565-H	Classes and Commodities	Woodworth, La.	Shreveport, La.
3295	292	133	No. P.	23500	Classes and Commodities	L. & P. stations	Spokane, Wash.
602	248-A	134	P. A. Leland	5-S	Classes and Commodities	L. & P. and W. & L. C. stations	Texas points.
2371	32-C	135	V. S. & P.	527-C	Classes and Commodities	S. L. B. & S. stations	Vicksburg and points on V. S. & P.
7	294	136	C. M. & P. S.	115-A	Classes and Commodities	L. & P. stations	Washington and Idaho points
					CLASSES.		
	277	137	S. A. & S. W.		Classes	De Ridder, La.	Bon Ami, La.
					MISCELLANEOUS SCHEDULES.		
					BILLING INSTRUCTIONS AND BASING BOOKS.		
					Application.		
1-A	303	138	F. H. Dowie	R.B.& B.13	East-Bound Billing Instructions (Commercial Express Line).		
2	304	139	J. W. Gantt	S.& A.C.2	West-Bound Billing Instructions (Lackawanna-Grand Trunk Line).		
B-12	305	140	L. M. Souders	R.B.& B.19	East-Bound Billing Instructions (Empire Line).		
35	306	141	T. H. Noonan	E.B.G.B.7	East-Bound Billing Instructions (Central States Despatch).		
4	307	142	W. F. Wilberg	R.B.& B.12	East-Bound Billing Instructions (Richard-Michigan Central).		
1	308	143	W. F. Wilson	R.B.& B.14	East-Bound Billing Instructions (Canada Southern).		
3	309	144	D. T. Lawrence	S.& A.G.10	East-Bound Billing Instructions (National Despatch-Great Eastern).		
C-A-748	310	145	D. P. Weber	R.B.& B.15-W	West-Bound Billing Instructions (Canadian Pacific Despatch).		
1	311	146	J. P. Gay	R.B.& B.13	East-Bound Billing Instructions (Grand Trunk Despatch).		
4	312	147	W. R. Crow	R.E.& B.17	East-Bound Billing Instructions (Erie Despatch).		
A-4090	313	148	Erie	R.B.5	East-Bound Billing Instructions (Erie Railroad).		
77	314	149	T. H. Noonan	E.B.G.B.18	East-Bound Guide Book (Continental Line).		
5740	316	150	B. & O.	I.C.C.5740	East Bound Billing Bases (Baltimore & Ohio).		
11	317	151	Un. Line	I.C.C.11	East-Bound Billing Bases (Star Union Line).		
1	318	152	N. Y. C. Lines	R.B.& B.11	East Bound Billing Bases (New York Central Lines).		
1-A	319	153	C. J. Haigh	R.B.& B.17	East-Bound Billing Bases (Reading Despatch).		
					CLASSIFICATIONS, AND CLASSIFICATION EXCEPTIONS.		
					Applies on	From	To
4	251	154	F. O. Becker	46	Western Classification	L. & P., S. L. B. & S. and W. & L. C. stations	State and Interstate points.
520	241	155	F. A. Leland	2-F	Exceptions to Classification	L. & P., S. L. B. & S. and W. & L. C. stations	Ark., Houston, Galveston, etc.
558	242	156	F. A. Leland	1-Y	Exceptions to Classification	L. & P., S. L. B. & S. and W. & L. C. stations	Louisiana, Texas and Mexico points.
9	5-A	157	G. S. Maxwell	1-A	Exceptions to Classification	L. & P., S. L. B. & S. and W. & L. C. stations	State and Interstate points.
					SWITCHING TARIFFS, TERRITORIAL DIRECTORIES, TRANSIT PRIVILEGES AND MISCELLANEOUS CIRCULARS.		
15	12	158	S. A. & S. W.	....	Absorption of Switching Charges of Connecting Line at DeRidder, Bon Ami, Longville and Lake Charles		
....	15	159	S. A. & S. W.	....	Bills of Lading, Signing.		
....	17	160	S. A. & S. W.	....	Minimum Weights on Shipments in Open Cars.		
594	19	161	F. A. Leland	2	Official List of Open and Prepay Stations.		
....	18	162	S. A. & S. W.	....	Rewelching Lumber Shipments.		
13	5-A	167	S. A. & S. W.	....	Switching Charges at Bon Ami, DeRidder, Fulton, Lake Charles, etc.		
....	4	164	S. A. & S. W.	....	Switching Charges at Lamorie, La.		
17	9-A	165	S. A. & S. W.	....	Tariff Index.		
496	11	166	F. A. Leland	1	Territorial Directory.		
2585	20	167	K. C. S.	189	Transit Privileges on Grain, Grain Products, ect., at Lake Charles, La.		
12	8	168	S. A. & S. W.	....	Transit Privileges on Lumber and Logs.		
....	7	169	S. A. & S. W.	....	Transportation of Intoxicating Liquors.		
....	13	170	S. A. & S. W.	....	Uniform Bill of Lading.		

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SECOND SECTION.

LIST OF ALL FREIGHT TARIFFS AS TO WHICH THESE COMPANIES ARE DELIVERING CARRIERS.

I. C. C. No.	S. A. & S.W.No.	Index No.	Issued by	Issuing Road or Agt.'s No.	Applies on	From	To
4515	209-C	171	A. T. & S. F.	8125-C	Refrigeration Charges	Santa Fe System points	L. & P., S. L. B. & S. and W. & L. C. stations.
2929	139	172	A. T. & S. F.	8234	Classes and Commodities	Santa Fe System points	Longville, La.
A-297	230	173	A. C. L.	....	Classes and Commodities	Virginia and Carolina points	L. & P., S. L. B. & S. and W. & L. C. stations.
A-4	230	174	C. & W.	....	Classes and Commodities	Virginia and Carolina points	L. & P., S. L. B. & S. and W. & L. C. stations.
4567	230	175	C. A. O.	13378	Classes and Commodities	Virginia and Carolina points	L. & P., S. L. B. & S. and W. & L. C. stations.
1861	169	176	C. & A.	1307-B	Grain and Grain Products	Lone Springs, Fulton, Glasgow, MO, etc.	S. L. B. & S. stations.
3952	196-B	177	C. & A.	1160-B	Grain and Grain Products	K. C. M. & O. stations (via St. L. S. W.)	S. L. B. & S. stations.
37	286	178	C. M. & P. S.	311-A	Lumber, Shingles, etc.	Washington, Idaho and Montana	L. & P. stations.
11	287	179	C. M. & P. S.	121-A	Classes and Commodities	Seattle and Tacoma	L. & P. stations.
7	294	180	C. M. & P. S.	115-A	Classes and Commodities	Washington and Idaho	L. & P. stations.
C-8706	189-C	181	C. R. I. & P.	15434-C	Hay	Arkansas stations	S. L. B. & S. stations.
C-8713	198	182	C. R. I. & P.	24817	Refrigeration Charges	Arkansas, Kansas and New Mexico	Interstate points.
....	191-A	183	C. R. I. & P.	23565-A	Classes and Commodities	Alexandria, La.	W. & L. C. stations.
26	291	184	C. S. N. O. & P.	772	Classes and Commodities	New Orleans, La.	L. & P. stations.
25	289	185	C. S. N. O. & P.	249	Classes and Commodities	New Orleans, La.	Woodworth, La.
859	295	156	R. H. Countiss	S.R.993	Lumber and Shingles	Calif., Nev., Oregon, etc.	L. & P. stations.
862	208	157	R. H. Countiss	S.R.981	Lumber and Shingles	North Pacific Coast points	L. & P. stations.
878	233	188	R. H. Countiss	588	Commodities	Seattle, Tacoma, etc.	Various points.
889	282	189	R. H. Countiss	3-G	Classes and Commodities	California Terminals	L. & P. stations.
898	288	190	R. H. Countiss	2-F	Classes and Commodities	North Pacific Coast Terminals	L. & P. stations.
2766	8	191	I. C.	B-2854	Classes and Commodities	New Orleans, La.	S. L. B. & S. stations.
1799	203	192	K. C. S.	1451-C	Petroleum, Oil, etc.	Texas points	L. & P. stations.
....	259	193	K. C. S.	178	Commodities	K. C. S. stations	L. & P. stations.
2075	133	194	K. C. S.	2990	Classes and Commodities	Beaumont, Texas	L. & P. stations.
2172	144	195	K. C. S.	2644	Classes and Commodities	New Orleans, Vicksburg, etc.	L. & P. stations.
....	132	196	K. C. S.	2091	Classes and Commodities	Shreveport, La.	L. & P. stations.
600	276	180	F. A. Leland	6	Gravel	Fulerton, La.	Bon Ami, and Longville, La.
464	56	199	F. A. Leland	12-L	Cotton Seed and Cotton Seed Products	Texas points	La., Ill., Kas., etc.
687	200	200	F. A. Leland	23-K	Grain, Grain Products, Seeds and Hay	Texas points	L. & P., S. L. B. & S. and W. & L. C. stations.
				47-B	Grain, Grain Products, Seeds and Hay	Western States points	L. & P., S. L. B. & S. and W. & L. C. stations.
659	236	201	F. A. Leland	28-J	Live Stock		
601	245	202	F. A. Leland	7-F	Live Stock	Tex., La. and Ark points	Colo., La., Kas., etc.
593	327	203	F. A. Leland	32-E	Packing House Products	Texas points	Defined Territories.
562	293	204	F. A. Leland	25-O	Petroleum, Oil, etc.	Texas points	Interstate points.
578	244-C	205	F. A. Leland	37-C	Sugar, Rice and Molasses	Texas points	L. & P. stations.
4	4	206	F. A. Leland	2	Classes and Commodities	Texas points	L. & P. stations.
589	207	207	F. A. Leland	57-A	Classes and Commodities	Atlantic Seaboard Territory	L. & P., S. L. B. & S. and W. & L. C. stations
590	216	209	F. A. Leland	58-A	Classes and Commodities	Defined Territories (points west of Ind.-Ill. state line.)	L. & P., S. L. B. & S. and W. & L. C. stations.
613	206-G	211	F. A. Leland	21-C	Classes and Commodities	Defined Territories (points east of Ind.-Ill. state line)	L. & P., S. L. P. & S. and W. & L. C. stations.
602	246-A	212	F. A. Leland	8-B	Classes and Commodities	Houston, Galveston and Texas points	L. & P. stations.
						Texas points	L. & P. and W. & L. C. stations

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SECOND SECTION Continued.

I. C. C. No.	S. A. & S.W.No.	Index No.	Issued by	Issuing Road or Agt.'s No.	Applies on	From	To
506	25	213	F. A. Leland	20-U	Classes and Commodities	Texas points	L. & P., S. L. B. & S. and W. & L. C. stations
....	65	214	L. & A.	504	Classes and Commodities	Alexandria, La.	S. L. B. & S. stations.
....	11	215	L. & A.	432	Classes and Commodities	Minden, La.	S. L. B. & S. stations.
....	226-A	216	L. & A.	226-A	Classes and Commodities	New Orleans, La.	S. L. B. & S. stations.
A-116	146	217	L. R. & N.	1215	Classes and Commodities	New Orleans, La.	S. L. B. & S. stations.
....	192	218	L. R. & N.	1260	Classes and Commodities	New Orleans, La.	Woodworth, La.
....	192	219	L. R. & N.	1259	Classes and Commodities	Shreveport, La.	Woodworth, La.
A-8612	253	220	L. & N.	941	Petroleum, Oil, etc.	Cincinnati, Louisville, etc.	L. & P. stations.
A-655	223	221	Mo. P.	839	Coal and Coke	Memphis, Tenn.	S. L. B. & S. stations.
8487	15-A	222	Mo. P.	5165-A	Grain and Grain Products, Seeds and Hay	Kansas City, Omaha, etc. (Proportional)	S. L. B. & S. stations
8922	14-B	223	Mo. P.	5167-B	Hay and Straw	F. S. & W. stations	S. L. B. & S. stations
8456	36-A	224	Mo. P.	5164-A	Hay and Straw	Kansas, Mo. and Nebr. points	S. L. B. & S. stations
....	157	225	M. L. & T.	1122	Ice	Alexandria, La.	Woodworth, La.
2084-B	181-I	226	M. L. & T.	198-I	Salt	M. L. & T. Louisiana stations	S. L. B. & S. and W. & L. C. stations.
2430-B	262-A	227	M. L. & T.	657-A	Commodities	Shreveport, La.	L. & P. stations.
....	174	228	M. L. & T.	590	Classes and Commodities	Alexandria, La.	Woodworth, La.
....	194-A	229	M. L. & T.	606-A	Classes and Commodities	Lake Charles, La.	Woodworth, La.
2426-B	257-C	230	M. L. & T.	589-C	Classes and Commodities	New Orleans, La.	L. & P. stations.
2138-B	32-A	231	M. L. & T.	447-A	Classes and Commodities	New Orleans, La.	S. L. B. & S. stations
....	170-A	232	M. L. & T.	586-A	Classes and Commodities	New Orleans, La.	Woodworth, La.
1695-A	265	233	N. C. & St. L.	6	Coal and Coke	N. C. & St. L. Mines	S. L. B. & S. stations
1755-A	252	234	N. C. & St. L.	3	Classes and Commodities	N. C. & St. L. stations	Louisiana points.
3293	230	235	N. & W.	11091-A	Classes and Commodities	Virginia and Carolina points	L. & P., S. L. B. & S. and W. & L. C. stations.
3488	130	236	No. P.	24218	Lumber Buggies	Ashland, Wis.	Longville, La.
3	162	237	T. W. Parker	5	Coal, Coke and Coal Briquettes	Arkansas and Oklahoma points	L. & P., S. L. B. & S. and W. & L. C. stations.
3	296	238	P. & G. S. S. Co.	3	Classes and Commodities	Phila. and Seaboard Territory	L. & P., S. L. B. & S. and W. & L. C. stations.
206	295	239	W. A. Poteet	12-D	Classes and Commodities	Denver, Colo. Springs, etc.	L. & P. stations.
5486	231-F	240	St. L. & S. F.	473-F	Hay and Straw	St. L. & S. F. stations	S. L. B. & S. stations.
2462	61	241	St. L. S. W.	4165	Hay and Straw	Arkansas stations	S. L. B. & S. stations.
280	210	242	S. P. L. A. & S. L.	218-A	Refrigeration Charges	S. P. L. A. & S. L. points	L. & P., S. L. B. & S. and W. & L. C. stations.
A-705	230	243	S. A. L.	1020	Classes and Commodities	Virginia and Carolina points	L. & P., S. L. B. & S. and W. & L. C. stations.
16	266	244	W. J. Sedgman	1	Classes and Commodities	New York and Seaboard Territory	L. & P., S. L. B. & S. and W. & L. C. stations.
....	168	246	S. A. & S. W.	....	Brick, Tile and Fire Clay	DeRidder, La.	Longville, La.
....	209	246	S. A. & S. W.	....	Cotton Seed	S. L. B. & S. stations	Ringgold, La.
....	188	247	S. A. & S. W.	....	Hay (native grown)	Louisiana points	Louisiana points.
....	127	248	S. A. & S. W.	....	Lumber	Bon Ami and DeRidder, La.	Longville, La.
10	164	249	S. A. & S. W.	....	Potatoes	Ashton, La.	La gorie, La.
5	156	250	S. A. & S. W.	....	Rosin and Turpentine	Bundick, La.	DeRidder, La.
....	182	251	S. A. & S. W.	....	Sugar Cane	Ashton, La.	Lamorie, La.
....	295-A	252	S. A. & S. W.	....	Commodities	Ashton, La.	Lamorie, La.
....	271-A	253	S. A. & S. W.	....	Classes and Commodities	Lake Charles, La.	L. & P. stations.
4	1	254	S. A. & S. W.	....	Classes and Commodities	Louisiana stations (Distance Tariff)	Louisiana stations.
....	273	255	S. A. & S. W.	....	Classes	De Ridder, La.	Bon Ami, La.
A-2251	212	256	Sou.	5	Coal and Coke	Alabama, Tennessee, etc.	S. L. B. & S. stations
A-249	230	257	Sou.	....	Classes and Commodities	Virginia and Carolina points	L. & P., S. L. B. & S. and W. & L. C. stations.
A-97	261	258	T. C.	C. T. I.	Coal and Coke	Mines on Tennessee Central	S. L. B. & S. stations.
1632	27	259	T. & P.	I.B. 4479-H	Classes and Commodities	Alexandria, La.	Woodworth, La.
1329	69	260	T. & P.	I.B. 2958-H	Classes and Commodities	New Orleans, La.	W. & L. C. stations.
1342	26	261	T. & P.	I.B. 5685-H	Classes and Commodities	Shreveport, La.	Woodworth, La.
....	140-A	262	V. S. & P.	1466-A	Gravel	Gibler Gravel Pit, La.	Longville, La.
2336	282	263	V. S. & P.	P-90	Locking Cars	Shreveport, La.	S. L. B. & S. stations.
1851	31-B	264	V. S. & P.	531-B	Classes and Commodities	New Orleans, N. O. & N. E. and A. & V. stations	S. L. B. & S. stations.

SECOND SECTION—Concluded

LIST OF ALL FREIGHT TARIFFS AS TO WHICH THESE COMPANIES ARE DELIVERING CARRIERS—Concluded.

I. C. C. No.	S. A. & S. W. No.	Index No.	Issued by	Issuing Agent's Record or Agt.'s No.	Applies on	From	To
2546	35	285	V. S. & P.	304-C	Classes and Commodities	Shreveport and Monroe, La	S. L. B. & S. stations.
2331	32-C	286	V. S. & P.	327-C	Classes and Commodities	Vicksburg, Miss and V. S. & P. sta	S. L. B. & S. stations.
						Lines—	
36	279	287	M. P. Washburn	P 17 3	Iron, Pig	Arkansas Producing points	S. L. B. & S. stations.
35	280	288	M. P. Washburn	2	Pipe, Cast Iron	Southern Producing points	L. & P.; S. L. B. & S. and W. & L. C. stations.
33	282	289	M. P. Washburn	2	Classes and Commodities	Defined Territories (points south of Ohio River)	L. & P.; S. L. B. & S. and W. & L. C. stations.

MISCELLANEOUS SCHEDULES.

CLASSIFICATIONS, CLASSIFICATION EXCEPTIONS.

4	251	270	F. O. Bethell	46	Western Classification	State and Interstate points	L. & P.; S. L. B. & S. and W. & L. C. stations.
520	241	271	F. A. Leland	2-F	Exceptions to Classification	Ark., Houston, Galveston, etc	L. & P.; S. L. B. & S. and W. & L. C. stations.
548	242	272	F. A. Leland	1-Y	Exceptions to Classification	Defined Territories and Texas points	L. & P.; S. L. B. & S. and W. & L. C. stations.
9	6-A	273	G. B. Maxwell	1-A	Exceptions to Classification	State and Interstate points	L. & P.; S. L. B. & S. and W. & L. C. stations.

SWITCHING TARIFFS, TERRITORIAL DIRECTORIES, TRANSIT PRIVILEGES AND MISCELLANEOUS CIRCULARS.

2382	25	211	K. C. S.	151-D	Reconsignment of Grain, Grain Products, etc., at Shreveport, La.		
2456	21	275	K. C. S.	170-C	Transit Privileges on Grain, Grain Products, etc.		
2559	22	276	K. C. W.	177-A	Transit Privileges on Grain, Grain Products, etc., at Lake Charles, La.		
2565	20	277	K. C. S.	189	Transit Privileges on Grain, Grain Products, etc., at Lake Charles, La.		
594	19	278	F. A. Leland	3	Official List of Open and Prepay Stations.		
496	11	279	F. A. Leland	1	Territorial Directory.		
15	13	280	S. A. & S. W.	....	Abstract of Switching Charges of Connecting Line at DeRidder, Ben Ami, Lonesille and Lake Charles.		
....	15	281	S. A. & S. W.	....	Bills of Lading.		
....	17	282	S. A. & S. W.	....	Minimum Weights on Shipments in Open Cars.		
....	18	283	S. A. & S. W.	....	Revolving Lumber Shipments.		
13	5-A	284	S. A. & S. W.	....	Switching Charges at Ben Ami, DeRidder, Fulton and Lake Charles.		
....	4	285	S. A. & S. W.	....	Switching Charges at Lamorie, La.		
17	6-A	286	S. A. & S. W.	....	Tariff Index.		
....	16	287	S. A. & S. W.	....	Transit Privileges on Grain, Grain Products, etc.		
....	7	288	S. A. & S. W.	....	Transportation of Intersecting Liquors.		
....	12	289	S. A. & S. W.	....	Uniform Bill of Lading.		

THIRD SECTION.

NUMERICAL LIST OF I. C. C. NUMBERS, COVERING FREIGHT TARIFFS AND CIRCULARS ISSUED BY THESE COMPANIES, WITH INDEX TO DESCRIPTION IN FIRST AND SECOND SECTIONS.

I. C. C. No.	Index	I. C. C. No.	Index	I. C. C. No.	Index
4	117—254	12	168	15	196—280
8	96—256	13	165—284	17	195—286
10	91—249				

THIS PAGE
VERTICAL

FOURTH SECTION.

LIST OF ALL PASSENGER TARIFFS AND CIRCULARS PUBLISHED BY THESE COMPANIES AS INITIAL LINES.

TARIFFS.

I. C. C. No.	S. A. & S. W. No.	Issued by	Issuing Road or Agt.'s No.	Applies on	From	To
1	....	S. L. B. & S. L. & P.	1	Passenger Fares	S. L. B. & S. stations	S. L. B. & S. stations.
2	....		3	Passenger Fares	L. & P. stations	L. & P. stations.
		CIRCULARS.				
1	1	S. A. & S. W.	....	Transportation of Theatrical Companies, etc.	L. & P. stations	L. & P. stations.
4	9-A	S. A. & S. W.	....	Tariff Index		

FIFTH SECTION.

LIST OF ALL PASSENGER TARIFFS IN WHICH THESE COMPANIES ARE SHOWN AS PARTICIPATING OR DELIVERING LINES.

I. C. C. No.	Issued by	Issuing Road or Agent's No.	Applies	From	To
1797	C. & O.	26	Passenger Fares	Kentucky, Ohio and Virginia points	Various points.
1786	C. & O.	47	Passenger Fares	Kentucky, Ohio and Virginia points	Various points.
F-627	Jos. Richardson	N-11	Passenger Fares	Memphis, Tenn.	Various points.
C-5	W. H. Fitzgerald	C-5	Passenger Fares	Virginia and North Carolina points	Various points.
F-642	Jos. Richardson	1	Baggage Rates, Rules and Regulations	Southeastern points	L. & P., S. L. B. & S. and W. & L. C. stations.
1780	John D. Potts	9-1909	Stop-over Privileges	Chesapeake and Ohio points	Various points.

BOUND IN BOOK

56 Mansfield Railway & Transportation Company.

SHREVEPORT, LA., *April 12th*, 1913.

Mr. E. A. Frost, President, Mansfield Ry. & Transportation Co., Shreveport, Louisiana.

DEAR SIR: Beg to hand you herewith, extract from minutes of a meeting of the Board of Directors of this company, held at Mansfield, La., on Feb. 25th, 1909, relative to the purchase of eight miles of the main tram road from the De Soto Land & Lumber Company, from which it will be noticed that this company executed its notes aggregating $120,806.97 and it will be remembered that since this, we purchased six miles of additional track from the Frost-Johnson Lumber Company, for which we executed our notes for $96,000.00.

Wish to advise that we have paid interest in full to the Frost Johnson Lumber Company on the above notes to January 1st, 1910, amounting to $11,816.48.

Our books on March 31st of the current year, shows accrued interest on the above notes amounting to $42,277.41, being interest at six per cent per annum from January 1st, 1910, to March 31st, 1913, the monthly interest charge of $1,084.04, having been taken into account each month, and credited to accrued interest.

Yours very truly,

S. H. DOWELL, *Auditor*.

56*a* Mansfield Railway & Transporation Company.

Extract from Minutes of a Meeting of the Board of Directors of the Mansfield Railway & Transportation Company, Held at the Officers of the Company, in Mansfield, Louisiana, on February 25th, 1909.

Resolved: That, the main tram road of the De Soto Land and Lumber Company from Mansfield, De Soto Parish Louisiana, to Section Twenty One (21), Township Eleven (11), Range Fourteen (14), in said Parish of De Soto Louisiana, with all rights of way, etc., has been purchased by the officers of this company for and in the name of this company for the consideration of One Hundred Twenty Eight Thousand Dollars (subject to the right of the vendor to use said track for logging purposes free of charge for the period of — years) and for said purchase price, the six notes of the company, five for $20,000.00 each and one for $20,806.97, with a 6 per cent per annum interest from date till paid, have been executed and signed in the name of the company by E. H. Payne, Secretary. Now, said purchase having been made with the consent of all members of the Board of Directors, the same is formally ratified and made the act of the company, as is also the act of the Secretary in executing and signing said notes which are hereby recognized and declared to be the valid obligation of the company ad initio, and the Secretary of the Company is authorized and directed to accept formal transfer of said property.

(Signed) A. J. PEAVY, *Chairman*.

(Signed) E. H. PAYNE, *Secretary*.

57

No. 576.

SOUTHWESTERN LBR. CO.
to
INDUSTRIAL LBR. CO.

Sale of Land.

Know all men by these presents, that whereas the Southwestern Lumber Company, a corporation of Jersey City, State of New Jersey, herein represented by its President, E. P. Ripley, as shown by the certified copy of a resolution of the Board of Directors of said Company dated September 4th, 1907, hereto annexed is the present Owner and holder of same Sixty one thousand and odd acres of land and timber in the Parishes of Calcasieu, Vernon and Rapides, State of Louisiana, embracing among other lands, the two sections of land hereinafter specifically described which said sixty one thousand and odd acres of land and timber the said Southwestern Lumber Company is under an obligation to convey to the Industrial Lumber Company, a corporation of Beaumont State of Texas, under and in pursuance of an agreement between the said, Southwestern Lumber Company and the said Industrial Lumber Company, dated December 30th, 1905, and which agreement is made part of this present sale, and provided the said Industrial Lumber Company, shall perform all the conditions stipulated for it to perform to entitle it to the conveyance and benefits stipulated for it in the said agreement of December 30th, 1905; and whereas it is the common belief of the said Southwestern Lumber Company and the said Industrial Lumber Company, that the interest of both Companies will be better subserved by the Southwestern Lumber Company's making a present title to the said Industrial Lumber Company of the said Two sections of land hereinafter specifically described, rather than to wait until such time as the said Industrial Lumber Company,
58 would be entitled to such conveyance under the said Agreement of December 30th, 1905, to-wit; July 1st, 1918, with the distinct Understanding that the title to the said Two sections of land however shall be conditioned upon the said Industrial Lumber Company's discharging regularly and fully all the conditions and stipulations provided for it to perform in the said agreement of December 30th, 1905, to entitle it to a conveyance of the said Two sections of land, or land and timber embraced in the said agreement of December 30th, 1905, and shall, of course, fully and finally vest in the said Industrial Lumber Company, or its successors or assigns only when such said conditions and stipulations of the said agreement of December 30th, 1905, shall have been properly and fully performed; Now, therefore be it Known, That in consideration stated in the said agreement of December 30th, 1905, to-wit; The payment in the future by the said Industrial Lumber Company to the said Southwestern Lumber Company, of the sum of Two Million, Two Hundred and Ninety thousand nine hundred and Seventy two and twenty-one hundredths Dollars, together with various other sums and the carrying out of various and sundry

other obligations by the said Industrial Lumber Company, all as and in the manner, set forth in the said agreement of December 30th, 1905, and made part hereof, and as aforesaid, and being the consideration for the aforesaid Sixty one Thousand and odd acres of land and timber as above mentioned and embracing the said two sections of land hereinafter specifically described in the said Southwestern Lumber Company, represented herein and acting as aforesaid, through its undersigned President E. P. Ripley, and
59 under the authority aforeshown, does hereby grant, sell, convey, and deliver unto the said Industrial Lumber Company, representing and acting herein, and accepting through its President, Samuel Park, and under resolution of the Board of Directors of said Company, dated September 19th, 1907, and a certified copy whereof is hereto annexed, all and singular the following described property to-wit; Those two sections of land in the Parish of Calcasieu, State of Louisiana, more specifically described as Sections Twenty and Twenty-one, of Township Two, South Range Four West embracing Twelve Hundred and Ninety one and 57/100 acres more or less, it is understood that should the said Industrial Lumber Company, cut any timber on the said described two sections of land, such timber shall be paid for at the rate and in the manner set forth in the aforesaid agreement of December 30th, 1905.

This sale is made without any warranty of title on the part of the vendor herein except as against its own acts and the acts of those claiming by, through or under it. It is stated that *on* this restriction *is* warranty is not intended to cast any cloud upon the title to the said described two sections of land but that this provision is one of the terms of the aforesaid agreement of December 30th, 1905, based upon the particular relations of the said Southwestern Lumber Company, and Industrial Lumber Company, with regard to these said Sixty one thousand and odd acres of land and timber. It is further understood and assuming, of course, that such conveyance will be made, that when the said Industrial Lumber Company shall have conveyed the remainder of these sixty one thousand and odd acres of land and timber, to-wit; July 1, 1910, or at any other time, should the Conveyance be made at any other time, in pur-
60 suance of the said agreement of December 30th, 1905, the said Southwestern Lumber Company, shall then substantially quit-claim also, these within described two sections of land, admitting and setting forth that all the conditions attached to the complete vestiture of title to the within described two sections of land in the said Industrial Lumber Company or its assigns have been complied with. The said Southwestern Lumber Company, shall at the time also subrogate the said Industrial Lumber Company to all the rights and actions in warranty that it, the said Southwestern Lumber Company, might have against all other persons. All taxes due on the within conveyed property for the three years preceding the year 1907 have been paid, as is evidenced by the certificate of th Tax Collector of Calcasieu Parish, hereto annexed. Thus done and signed by the Southwestern Lumber Company through its aforesaid president, E. P. Ripley, in the County of Cook, State of

Illinois, this 17th day of September, A. D. 1907, and by the said Industrial Lumber Company, through its aforesaid President, Samuel Park, in the County of Jefferson, State of Texas, this 19th day of September, A. D. 1907.

(Signed) SOUTHWESTERN LUMBER CO.,
By E. P. RIPLEY, *President.*
INDUSTRIAL LUMBER COMPANY.
SAMUEL PARK, *President.*

STATE OF ILLINOIS,
County of Cook:

Before me, the undersigned authority personally came and appeared the above named E. P. Ripley to me personally well known, and known to me to be the Officer he pretends in the above instrument to be, who declared and acknowledged to me in the presence of the subscribing witnesses hereto, that he voluntarily signed and executed the said above and foregoing instrument for the uses and purposes therein set forth and in the capacity therein stated. In testimony whereof the said appearer has hereunto set his
61 hand in the presence of and together with said witnesses, males over twenty-one years of age residents of this county competent witnesses, and I said authority, have hereunto set my hand and seal in the presence of and together with said appearers and said witnesses in the County and State first above written, this 17th day of September, A. D. 1907.

[SEAL.] C. P. RIPLEY.

(Witnesses:)
CHAS. JENSEN.
E. J. ENGEL.
NELSON W. WILLARD.

STATE OF TEXAS,
County of Jefferson:

Before me, the undersigned authority, personally came and appeared the above named Samuel Park, to me personally known and known to be the Officer he pretends in the above instrument to be, who declared and acknowledged unto me in the presence of the subscribing witnesses hereto, that he voluntarily signed and executed the said above and foregoing Instrument for the uses and purposes therein set forth and in the capacity therein stated. In testimony whereof the said appearer has hereunto set his hand, in the presence of and together with the said witnesses, males over twenty-one years of age, residents of this County, competent witnesses, and I said authority, have hereunto set my hand and seal in the presence of and together with said appearer and said witnesses in the County and State first above written, this 19th day of September, A. D. 1907.

SAMUEL PARK.

(Witnesses:)
L. R. WILLARD.
F. W. LISKOW.

[SEAL.] M. E. BUCK,
Notary Public, Jefferson County, Texas.

Resolution of Southwestern Lumber Company.

SEPTEMBER 4, *A. D.* 1907.

A Meeting of the Board of Directors of the Southwestern Lumber Company, was duly convened and held at the Office of the Company at New York City, State of New York, this 4th day of September,
A. D. 1907, present the following Directors, Edward P. Rip-
62 ley, Victor Morawetz, A. E. Waterhouse, L. C. Deming, constituting a quorum. On motion duly made and seconded, the following resolution was unanimously passed.

Resolved. That in view of the relations subsisting between this Company and the Industrial Lumber Company, of Beaumont, Texas, under and in connection with a certain agreement of sale, executed between this Company and the said Industrial Lumber Company, under date of December 30th, 1905, and with regard to the Sixty-one thousand and odd acres of land and timber embraced under, or in contemplation of, the said agreement of December 30th, 1905, and of which said land and timber the sections of land hereinafter described are a part of the further fact that it is the belief of this Company that it is to the interest of this Company that this Company should make a present title to the said Industrial Lumber Company, of the said hereinafter described two sections of land, rather than to wait until such time as the said Industrial Lumber Company, might become entitled to a Conveyance of the said Two described sections of land under the said Agreement of December 30th, 1905, to-wit; July 1st, 1918, with the understanding only, that the full vestiture of title to the said two described sections of land in the said Industrial Lumber Company, shall be conditioned upon the full and complete compliance with all the provisions and conditions of the said Agreement of December 30th, 1905; That this Company, through its President, E. P. Ripley, do make a present conveyance of said hereinafter described two sections of land to the said Industrial Lumber Company, conditioned only upon the provisions and terms as above mentioned of said agreement of December 30th, 1905, and the said two described sections of land being
the following, to-wit; Sections Twenty and Twenty One, of
63 Township Two South of Range Four West of the Parish of Calcasieu, State of Louisiana, embracing Twelve Hundred and Ninety-one and 57/100 acres, more or less. It shall be stated, that, the Industrial Lumber Company shall cut any timber on the said described two sections of land, such timber shall be paid for at the rate and in the manner set forth in the aforesaid agreement of December 30th, 1905. That the President shall be entitled to stipulate that this Company will execute to the said Industrial Lumber Company, substantially a quit-claim deed to the said described two sections of land, admitting the complete carrying out of all the conditions and stipulations attaching to the full and final vestiture of title in the said Industrial Lumber Company, should, of course, such become the case, whenever this Company, shall

convey the remainder of the aforesaid Sixty One Thousand and odd acres of land, and timber to the said Industrial Lumber Company, The President shall also stipulate that at the time such quit-claiming is done, this Company, shall then also subrogate the said Industrial Lumber Company to all the rights of Warranty that it might have against all other persons. I, the undersigned hereby certify -he above and foregoing to be a true and correct copy of a resolution passed by the Board of Directors of the Southwestern Lumber Company at a meeting hold by the said Board at the place and upon the date above set forth.

Witness my signature and seal of Office this 4th day of September, A. D. 1907.

[SEAL.] L. C. DEMING, *Secretary.*

Resolution of the Board of Directors of Industrial Lumber Co.

BEAUMONT, TEXAS, *Sept. 19th,* 1907.

A meeting of the Board of Directors of the Industrial Lumber Company, was duly convened and held at the Office of the
64 Company at Beaumont, Texas, this 19th day of September, A. —. 1907.

Present the following Directors: Sam Park, Newton R. Wilson, R. M. Hollowell, Jos. Muth, constituting a quorum.

On motion duly made and seconded, the following resolution was unanimously passed. That whereas, it is to the interest of this Company to ask and accept from the Southwestern Lumber Company of Jersey City, New Jersey, a present title of sections Twenty and Twenty-one, of Township Two, South of Range Four West, of the Parish of Calcasieu, State of Louisiana, embracing Twelve hundred and Ninety one and 57/100 acres, more or less subject to all the conditions, for a full and complete vestiture of title to this Company of the agreement between this Company and the Southwestern Lumber Company, dated December 30th, 1905, and whereas the said Southwestern Lumber Company, has expressed a willingness to convey the said described land to this Company under such conditions and certain other special conditions as to the cutting of timber and final quit-claiming of the land to this Company, upon the fulfillment of all the conditions which this company, is obliged to perform, and also a subrogation at the time of such quit-claiming of all the said Southwestern Lumber Company's rights in warranty against all other persons, as to the said two described sections of land; That, therefore, be it Resolved, That this Company accepts such Conveyance from said Southwestern Lumber Company and that the President of this Company, Samuel Park, be and he is hereby authorized and requested to execute such a deed of Conveyance accepting the said title to the said described land, for and in the name of this Company. I, the undersigned hereby certify the above and foregoing to be a true and correct copy of a resolution passed by the Board of Directors of the Industrial Lumber Company, at a

meeting hold by the said Board at the place and upon the
65 date above set forth. Witness my signature and seal of Office this 19th day of September, A. D. 1907.

[COR. SEAL.] JOS. MUTH,
Ass't Sec'y.

I, the undersigned hereby certify that an examination of the Records of this Office show that all taxes assessed against Sections Twenty and Twenty-one of Township 2 South Range 4 West, of this Parish for the years 1904, 1905, and 1906 have been duly paid.

Witness my hand of Office in the parish of Calcasieu, State of Louisiana, on this 15th day of August, 1907.

D. J. REID,
Tax Collector,
Per E. H. ANDRUS, *Deputy.*

Filed Sept. 20th, 1907. No. 22397.

Recorded Sept. 21st, 1907.

M. E. CRAWFORD,
Deputy Clerk & Ex Officio Recorder.

STATE OF LOUISIANA,
Parish of Calcasieu:

Office of Clerk, 15th Jud'l Dist. Court of La.

I hereby certify that the above and foregoing is a true and correct copy of a certain Sale of Land, from the Southwestern Lbr. Co. to Industrial Lbr. Company, recorded in Book 87 of *of* Conveyances, at page 569 et seq.

In testimony whereof, I hereunto affix my signature and seal of Office at Lake Charles, La., this 6th day of December, A. D. 1909.

[SEAL.] EUGENE J. LEVEGUE,
Deputy Clerk of Court.

Filed. Interstate Commerce Commission. Docket No. 11, I. & S. Exhibit No. —. Witness, —— ——. Complainants, —— ——. Defendants, —— ——. Date, 1-31-11. Steno., Philips.

66 *Statement of Shipments for Year* 1910.

Recapitulation.

States.	Feet, board measure.	Lath.	Cars.
Arkansas	1,158,042	.....	68
Colorado	2,353,966	25,000	102
Illinois	36,144,584	1,906,984	1,781
Indiana	15,016,738	3,729,150	731
Iowa	12,642,025	522,300	620
Kansas	8,275,881	363,550	381
Louisiana	2,069,866	145,000	141
Maryland	634,157	.....	31
Massachusetts	41,464	.....	2
Michigan	3,742,076	.....	196
Minnesota	1,818,724	86,250	90
Missouri	23,568,712	4,040,800	1,167
Nebraska	17,149,275	771,650	798
New Hampshire	21,120	.....	1
New Jersey	36,480	.....	1
New Mexico	785,560	.....	50
New York	1,232,415	.....	59
North Dakota	25,119	.....	1
Ohio	7,355,765	437,150	397
Oklahoma	14,337,766	.....	677
Pennsylvania	1,468,715	.....	71
South Dakota	1,750,528	21,400	92
Tennessee	1,709,682	.....	78
Texas	18,686,250	.....	990
Utah	166,209	.....	9
Wisconsin	4,362,205	.....	231
Wyoming	166,817	.....	8
West Virginia	117,557	.....	6
Canada	3,075,593	.....	192
Mexico	1,181,510	.....	64
	181,094,801	12,049,234	9,035

Filed. Interstate Commerce Commission. Docket No. 11, I. & S. Exhibit No. —. Witness, —— ——. Complainants, —— ——. Defendants, —— ——. Date, 1-31-11. Steno., Philips.

67 Interstate Commerce Commission. Docket No. 11, I. & S. Exhibit No. 2. Witness, Kirby. Complainants, —— ——. Defendants, —— ——. Date, 1-30-11. Steno., Philips.

See p. 6529.

Statement of Kirby Lumber Company's Tram Lines, Showing Mileage, Equipment, and Operations.

Location of industrial railroad.	Miles operated.	Number of locomotives.	Number of cars.	Approximate tonnage of lumber manufactured from logs handled year ending June 30th, 1909.	Approximate tonnage of camp supplies.	Operating expenses for year ending June 30th, 1909.
Silsbee—Village*	39.5	6	79	29,804	795	$33,729.00
Ford's Bluff (Evadale)	17.5	4	41	20,390	272	19,202.33
Bessmay—Buna	34	7	95	68,851	918	56,691.05
Call	30	7	144	58,246	1,553	80,265.55
Kirbyville	20	5	70	52,690	703	74,257.72
Roganville	14	3	28	21,378	285	29,813.49
Browndel	7	1	25	51,935	692	42,997.25
Bronson	7	2	17	23,661	316	18,327.51
Mobile*	12	4	30	.....	....	.....
Fuqua	13.5	3	34	17,503	233	29,219.45
Lyric	12	2	3	†7,323	510	15,179.89
Totals	206.5	44	566	351,781	6,277	$399,683.24

* Mill not in operation.
† Hewn Ties.

REMARKS.—No division of rates received. Made to compare Kirby Lumber Co.'s industrial railroads with other Tap Lines that are incorporated for the purpose of securing divisions of rates on lumber and other commodities, at rates varying from 1¢ to 6¢ per 100 pounds.

(Here follows table, marked p. 68.)